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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

THE STATE OF OREGON, KATE BROWN,
Governor; ELLEN ROSENBLUM, Attorney
General; and THE CITY OF PORTLAND,

Plaintiffs,

v.

DONALD J. TRUMP, President of the United
State, in his official capacity; MATTHEW G.
WHITAKER, Acting Attorney General of the
United States, in his official capacity; and the
UNITED STATES OF AMERICA,

Defendants.

Case No. 6:18-cv-01959-MC

DECLARATION OF PEENESH SHAH

I, Peenesh Shah, declare:

1. I am an Assistant Attorney General in the Appellate Division of the Oregon Department of Justice. I am one of the attorneys representing Plaintiffs State of Oregon, Kate Brown, and Ellen Rosenblum.

2. I make this declaration in support of the First Amended Complaint for Declaratory, Injunctive, and Mandamus Relief and also in support of Plaintiff's Combined Motion for Summary Judgment and Response to Defendant's Motion to Dismiss. I further make this declaration from a combination of personal knowledge and reliance upon Oregon Department of Justice records which are regularly maintained in the ordinary course of business. I am competent to testify to the facts herein.

3. Attached as exhibit 1 is a true and correct copy of a letter submitted by the Mayor of Woodburn to the Oregon House of Representatives' Rules Committee in support of 2017 HB 3464, which was codified, once enacted, at ORS 180.805. The letter was entered as Exhibit 12 during a June 8, 2017 public hearing on the bill, and it is available on the internet at <https://olis.leg.state.or.us/liz/2017R1/Downloads/CommitteeMeetingDocument/133031>.

4. Attached as exhibit 2 is a true and correct copy of a letter written by then-Chief Justice Thomas Balmer of the Oregon Supreme Court and submitted to the Oregon House of Representatives' Rules Committee by then-Presiding Judge Nan Waller of the Multnomah County Circuit Court, at a hearing on 2017 HB 3464, which was codified, once enacted, at ORS 180.805. The letter was entered as Exhibit 8 during a June 8, 2017 public hearing on the bill, and it is available on the internet at <https://olis.leg.state.or.us/liz/2017R1/Downloads/CommitteeMeetingDocument/133444>. Judge Waller referenced the letter during her testimony about problems experienced by Oregon's courts as a result of immigration enforcement at or near Oregon's courthouses; that testimony, beginning shortly after the 27th minute of the recorded hearing, is available on the internet at

http://oregon.granicus.com/MediaPlayer.php?clip_id=23909, and it explicitly references the exhibit letter shortly before the 30th minute of the recorded hearing.

5. Attached as exhibit 3 is a true and correct copy of a written summary of testimony given by Oregon State Representative Rocky Barilla to the Senate Judiciary Committee in support of 1987 HB 2314, which was codified after enactment at ORS 181.850 before being renumbered ORS 181A.820. As shown by the stamp placed in the upper-right-hand corner of that written summary, it was entered as Exhibit E at a hearing before that committee on May 20, 1987.

6. Attached as Exhibit 4 is a true and correct copy of legislative history materials for 1987 HB 2314, which was codified after enactment at ORS 181.850 before being renumbered ORS 181A.820.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on March 8, 2019.

s/ Peenesh Shah
PEENESH SHAH
Assistant Attorney General



June 7, 2017

The Honorable Jennifer Williamson
Chair, House Rules Committee

VIA E-Mail

Re: HB 3464

Chair Williamson and Members of the Committee:

As Mayor of the City of Woodburn, I am writing to express my enthusiastic support for HB 3464.

Woodburn is the largest minority-majority city in the State of Oregon. The largest single minority group is Latinos. While most of Woodburn's Latino population consists of American citizens and legal residents, a smaller but still significant group are not documented or the beneficiaries of more limited residency status, such as DACA. It is important to note that both local agencies and academic researchers have found that most undocumented people in Woodburn are the family and household members of others who are citizens or legal residents.

Woodburn provides its services to residents and/or ratepayers without reference to their immigration status. Undocumented residents pay property taxes directly or through their mortgage or rent payment. They pay for sewer and water services. They may pay to have their children participate in sports or recreational activities we offer, or to participate in adult league play. We believe that in return they deserve the same quality service as any other community member.

Our Police Chief, Jim Ferraris, has been a leader in reassuring community members that they are safe when they report crimes, provide tips, or otherwise cooperate with police. He has made it clear that, for purposes of law enforcement and community policing, we do not care about a community member's immigration status. Fortunately, this approach is not just the Woodburn Police Department's internal policy, it is supported by Oregon statute. Unfortunately, policing is only one function a local government provides. We also function as a utility company, a library operator, and a recreation provider, among other things. HB3464 offers statutory support for our practices that we do not find under existing Oregon law.

I've attached a letter that I sent to Attorney General Rosenblum in March. In that, we expressed our concern about the level of fear affecting community members because of increased ICE activity and the level of rhetoric coming from the new administration in Washington, D.C. We also expressed an interest in having the Attorney General provide some direction to us and other local governments as to our rights and obligations while serving our community members who are not documented and their family and household members.

A number of the concerns that prompted my letter were the following:

1. As stated above, we provide services without reference to immigration status. Some services are fee-for-service, and others are available to all individuals with an address within the Woodburn city limits. To do otherwise, we believe, is both unfair and potentially discriminatory. Are we on solid ground in having such a policy?
2. We collect various types of information about community members as we work with them as a local government. People sign up for water service, a library card, or a park program. They may pay a traffic or ordinance fine, or make arrangements to pay a fine in installments. If ICE or a similar agency were to ask us for this information, we believe we face substantial potential liability whether we share such information or whether we refuse.
3. We are concerned about people who are afraid to use our facilities or services, or allow family members to do so, because of concerns about ICE enforcement activities. We want to encourage the fullest community participation possible, but do not want to put individuals and families in harm's way. We need some direction on how to do this consistently with state and federal law.

I am pleased to see that HB 3464 addresses all of the concerns set forth above. Unfortunately, federal enforcement priorities that conflict with Oregon communities' values will continue for some time, but this legislation will offer valuable assistance to local governments as we tend to some of our most vulnerable community members.

We thank Governor Brown and Attorney General Rosenblum for their wisdom and compassion in asking that this legislation be introduced. We thank Representatives Alonso Leon and Hernandez for introducing it. We thank the co-sponsors. We believe HB 3464 deserves the Committee's favorable consideration.

Sincerely,


Kathy Figley
Mayor, City of Woodburn



March 22, 2017

The Honorable Ellen F. Rosenblum, Attorney General
Oregon Department of Justice
1162 Court Street NE
Salem, Oregon 97301-4096

Sent via Email and U.S. Postal Service

Dear Attorney General Rosenblum,

Woodburn is one of Oregon's most diverse and growing communities, comprised of significant Latino, Russian, Somali and senior populations. We are a community deeply committed to the notion of family, faith and hard work. As a result, Woodburn provides a quality of life and cultural richness that few in the Northwest enjoy. We are proud of Woodburn's diversity and strong leadership.

Recently, we have seen media reports suggesting federal immigration agents are actively targeting the greater Woodburn area simply because of our Latino community. These reports have caused significant alarm and fear.

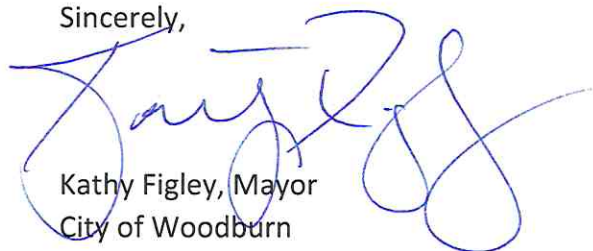
Regardless of their immigration status, many in Woodburn are fearful they will be stopped, questioned and even taken from their homes simply based on the color of their skin, lack of language skills, or because of family relationships. Many of these people are first, second and even third generation American citizens with children in our schools.

I have concluded that we need your help in explaining what rights exist for Oregon residents. Specifically, I am asking you to provide guidelines advising Oregonians of their legal rights when interacting with federal immigration agents – or any law enforcement officer – should they face questioning about their citizenship or immigration status. It is my hope the City can then relay this information to our community, helping ease fears and better empower our residents.

In Woodburn, the American Dream is alive and well with families, entrepreneurs and young people from all over the world. They have moved to Woodburn seeking freedom, education, opportunity and the ability to participate in civic life.

I appreciate your assistance and look forward to your response.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kathy Figley', is written over the printed name and title. The signature is fluid and cursive, with a large initial 'K' and 'F'.

Kathy Figley, Mayor
City of Woodburn

cc: Senator Peter Courtney
Representative Teresa Alonso Leon
Woodburn City Council

Thomas A. Balmer
Chief Justice



OREGON SUPREME COURT

1163 State Street
Salem, OR 97301-2563
Phone: 503.986.5717
Fax: 503.986.5730
Oregon Relay Service: 711
Thomas.Balmer@ojd.state.or.us

April 6, 2017

Attorney General Jeff Sessions
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

The Honorable John F. Kelly
Secretary of Homeland Security
Washington, DC 20528

Dear Attorney General Sessions and Secretary Kelly:

On behalf of the Oregon Judicial Department, I write to urge you to direct federal law enforcement agencies, including Immigration and Customs Enforcement (ICE), not to arrest individuals inside or in the immediate vicinity of Oregon's county courthouses. If you are unwilling to adopt that policy, then at a minimum, I request that you formally expand the definition of "sensitive locations" in the Homeland Security Policy to include these areas.

Let me explain. Our courthouses are open to the public, as a matter of tradition and as required by the Oregon Constitution, which provides that "justice shall be administered openly." ICE agents and other law enforcement officers have the same access to the public areas of our courthouses as all members of the public.

I fully recognize the scope of the statutory authority of ICE and other federal law enforcement agencies. OJD's policy is scrupulous neutrality -- just as we will not hinder federal, state, or local law enforcement agencies, including ICE, in the exercise of their enforcement authority, neither can we assist federal (or other) law enforcement in apprehending those who may have violated the law. As you know, the courts strive to be -- and must be -- impartial and neutral forums for the resolution of criminal and other cases.

To help the Oregon courts preserve their mandated impartial and neutral role, I respectfully request that you exercise your broad discretion in enforcing federal immigration and criminal laws, and *not* detain or arrest individuals in or in the immediate vicinity of the Oregon courthouses.

Letter to Attorney General Sessions
and Secretary Kelly
April 6, 2017
Page 2

As I am sure you appreciate, the Oregon courts must be accessible to all members of the public. The safety of individuals and families, the protection of economic and other rights, and the integrity of the criminal justice system all depend on individuals being willing and able to attend court proceedings: a witness who is subpoenaed to testify in a criminal case; a victim seeking a restraining order against an abusive former spouse; a driver paying a traffic fine; a landlord seeking an eviction or a tenant defending against one; or a small claims court plaintiff in a dispute with a neighbor.

The State of Oregon needs to encourage, not discourage, court appearances by parties and witnesses, regardless of their immigration status. However, ICE's increasingly visible practice of arresting or detaining individuals in or near courthouses for possible violations of immigration laws is developing into a strong deterrent to access to the courts for many Oregon residents. A number of our trial courts report that even attendance at scheduled hearings has been adversely affected because parties or witnesses fear the presence of ICE agents. The chilling effect of ICE's actions deters not only undocumented residents, but also those who are uncertain about the implications of their immigration or residency status or are close family, friends, or neighbors of undocumented residents. ICE's actions also deter appearances in court by those who are legal residents or citizens, but who do not want to face the prospect of what they see as hostile questioning based on perceived ethnicity, cases of misidentification, or other intrusive interactions with ICE agents.

I understand and appreciate the difficulty of the law enforcement work that you do. I trust that you understand as well the central role that the Oregon courts play in our state's criminal justice system, our efforts to protect children and families, and our daily work to ensure the rule of law for all Oregon residents. ICE's detention or arrest of undocumented residents in and near Oregon's courthouses seriously impedes those efforts. It deters individuals, some undocumented and some not, from coming to court when they should. For that reason, I urge you to adopt a policy of *not* arresting individuals for alleged immigration violations in or near Oregon's courthouses, or, at a minimum, to formally include courthouses in your definition of "sensitive locations" where ICE will thoroughly review the implications of and alternatives to making such arrests.

Letter to Attorney General Sessions
and Secretary Kelly
April 6, 2017
Page 3

We appreciate the discussions that our judges and staff have had with ICE officials in Oregon about their policies and practices, but believe this current and prospective interference with the administration of justice in Oregon calls for policy changes that only you can direct.

Thank you for your attention to this serious problem for the Oregon courts.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Thomas A. Balmer', with a long horizontal flourish extending to the right.

Thomas A. Balmer
Chief Justice

cc: Governor Kate Brown
Attorney General Ellen Rosenblum
Senator Ron Wyden
Senator Jeff Merkley
Oregon Congressional Delegation
Oregon Presiding Judges

ROCKY BARILLA
DISTRICT 31

REPLY TO:
H-471 State Capitol Building
Salem, Oregon 97310-1347



SENATE JUDICIARY
Bill No. HB 2314 Pages 1
Committee E Date Spokane
Presented by Rep. Rocky Barilla
COMMITTEES
Vice-Chairperson: _____
Housing and Urban Development
Member: _____
Environment and Energy
State and Federal Affairs
Legislative Rules, Operations and Reform
Legislative Counsel

HOUSE OF REPRESENTATIVES
SALEM, OREGON
97310-1347

Testimony to be given by Rep. Rocky Barilla
Wednesday, May 20, 1987

Subject: HB 2314 Local Enforcement of Immigration Laws

Chairperson Frye and Members of the Senate Judiciary Committee:

HB 2314 clarifies the existing law prohibiting local police from enforcing federal immigration laws.

The intent of this measure is to ensure that only the Immigration and Naturalization Service enforces immigration law.

Immigration laws are very complex and require specialized training in their enforcement. Local police have neither the authority nor the training to enforce any such laws. The State has enough to do in enforcing its own criminal laws. There are problems when local police try to enforce federal immigration laws, to mention a few:

1. An increased fiscal impact on cities and counties in terms of higher costs of enforcement.
2. There are increased litigation and insurance costs against cities and counties for false arrests by local police.
3. This also exacerbates the jail overcrowding problem.
4. There are also questions of infringements upon civil rights just because a person looks like an alien.
5. Lastly, in the face of the new Immigration Reform Act of 1986, there would be great difficulty in trying to determine the immigration status of an alien.

In 1977, an Attorney General's Opinion stated that neither state nor federal law authorizes local police to initiate investigations of, or to stop, detain or arrest persons solely because they are suspected illegal aliens. This bill would codify that opinion.

What the bill does not do:

It doesn't prevent local police from arresting aliens who are engaged in criminal activity. Nobody should go unpunished for criminal activity.

This bill passed the House 54-3.
I urge your support. Thank you.



181.700 STATE EXECUTIVE DEPARTMENT AND ORGANIZATION

Corrections and the Executive Department to defray the training costs of police officers and parole and probation officers and to defray the cost of the law enforcement data system. The amounts transferred under this subsection shall be deposited in the cash accounts of such agencies in accordance with an allotment plan approved by the Executive Department. [1961 c 721 §7; 1979 c.410 §7, 1987 c 320 §140]

181.700 Legislative intent; use of funds. It is the intent of the legislature in creating this agency to provide for the coordination of training programs for police officers, to provide for the coordination of training programs for corrections officers, to provide for the coordination of training programs for parole and probation officers and to set standards. The moneys provided in chapter 721, Oregon Laws 1961, are to be used for this purpose primarily and are not intended to replace other existing contributions to the functions outlined in ORS 181.610 to 181.700. [1961 c 721 §14, 1975 c.290 §14, 1977 c.382 §11]

181.705 Minimum standards and training requirements not applicable to certain police officers. The minimum standards and training requirements established pursuant to ORS 181.640 (1) do not apply to police officers commissioned by the Governor under ORS 131.880 who have served in that capacity for at least two years immediately preceding October 4, 1977. [1977 c.737 §4]

LAW ENFORCEMENT DATA SYSTEMS ACCOUNT

181.710 Law Enforcement Data System Account. There is established in the General Fund of the State Treasury an account to be known as the Law Enforcement Data System Account. All moneys received by the Executive Department for development and operation of

the system shall be paid to the credit of the Law Enforcement Data System Account, and such moneys are continuously appropriated for the purposes indicated. [1969 c 488 §§5, 6; 1973 c 130 §3, 1979 c 92 §5; 1981 c.59 §1]

POLICE GENERALLY

181.850 Enforcement of federal immigration laws. (1) No law enforcement agency of the State of Oregon or of any political subdivision of the state shall use agency moneys, equipment or personnel for the purpose of detecting or apprehending persons whose only violation of law is that they are persons of foreign citizenship residing in the United States in violation of federal immigration laws.

(2) Notwithstanding subsection (1) of this section, a law enforcement agency may exchange information with the United States Immigration and Naturalization Service in order to:

(a) Verify the immigration status of a person if the person is arrested for any criminal offense; or

(b) Request criminal investigation information with reference to persons named in service records.

(3) For purposes of subsection (1) of this section, the Bureau of Labor and Industries is not a law enforcement agency. [1987 c 467 §1]

Note: 181 850 was enacted into law by the Legislative Assembly but was not added to and made a part of ORS chapter 181 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

PENALTIES

181.990 Penalties. Violation of ORS 181.140 is a Class A misdemeanor. [Amended by 1971 c 743 §343]

employees who has been authorized or designated by it for that purpose.

Approved by the Governor July 7, 1987

Filed in the office of Secretary of State July 8, 1987

CHAPTER 467

AN ACT

HB 2314

Relating to law enforcement.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) No law enforcement agency of the State of Oregon or of any political subdivision of the state shall use agency moneys, equipment or personnel for the purpose of detecting or apprehending persons whose only violation of law is that they are persons of foreign citizenship residing in the United States in violation of federal immigration laws.

(2) Notwithstanding subsection (1) of this section, a law enforcement agency may exchange information with the United States Immigration and Naturalization Service in order to:

(a) Verify the immigration status of a person if the person is arrested for any criminal offense; or

(b) Request criminal investigation information with reference to persons named in service records.

(3) For purposes of subsection (1) of this section, the Bureau of Labor and Industries is not a law enforcement agency.

Approved by the Governor July 7, 1987

Filed in the office of Secretary of State July 8, 1987

CHAPTER 468

AN ACT

HB 2330

Relating to real estate; amending ORS 305.230, 696.010, 696.025, 696.162, 696.355 and 696.730.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 696.010 is amended to read:

696.010. As used in ORS 696.010 to 696.490 and 696.710 to 696.730, unless the context requires otherwise:

(1) "Advance fee" means a fee received before the professional real estate activity involved is completed[, where such activity is the listing of any real estate for sale, lease or exchange]. The term "advance fee" shall not include a retainer fee paid to a real estate broker, **appraiser** or organization to secure the availability of such broker, **appraiser** or organization for future [services] **professional real estate activity**, or a consulting fee paid to a real estate licensee engaged to provide

consultation or advice concerning the valuation, marketability or acquisition potential of real estate.

(2) "Bank" includes any bank or trust company, mutual savings bank or savings and loan association that maintains a head office or a branch in this state in the capacity of a bank or trust company, mutual savings bank or savings and loan association.

(3) "Board" means the Real Estate Board.

(4)(a) "Branch office" means a business location other than the main office designated under ORS 696.200 (1), where professional real estate activity is regularly conducted or which is advertised to the public as a place where such business may be regularly conducted.

(b) Model units or temporary structures used solely for the dissemination of information and distribution of lawfully required public reports shall not be considered branch offices. A model unit means a permanent residential structure located in a subdivision or development used for such distribution and dissemination, so long as the unit is at all times available for sale, lease, lease option or exchange.

(5) "Commissioner" means the Real Estate Commissioner.

(6) "Compensation" means any fee, commission, salary, money or valuable consideration for services rendered or to be rendered as well as the promise thereof and whether contingent or otherwise.

(7) "Controlling shareholder" means:

(a) Any individual who owns or controls, directly or indirectly, a majority of the outstanding shares of a corporate real estate organization.

(b) Any real estate salesperson who owns shares of stock of a corporate real estate organization, the majority of shares of which are owned or controlled, directly or indirectly, by real estate salespersons.

(8) "Division" means the Real Estate Division of the Department of Commerce.

(9) "Inactive license" means a license which has been returned to the commissioner and is being held by the commissioner on an inactive status.

(10) "Professional real estate activity" means any of the following actions, when engaged in for another and for compensation or with the intention or in the expectation or upon the promise of receiving or collecting compensation, by any person who:

(a) Sells, exchanges, purchases, rents or leases real estate.

(b) Offers to sell, exchange, purchase, rent or lease real estate.

(c) Negotiates, offers, attempts or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate.

(d) Lists, offers, attempts or agrees to list real estate for sale.

(e) Appraises, offers, attempts or agrees to appraise real estate.

OREGON STATE HOUSE OF REPRESENTATIVES

LEGISLATIVE SESSION - 1987

STAFF MEASURE ANALYSIS

Measure: HB 2314

Title: Relating to Law Enforcement

Committee: House Judiciary

Hearing Date: 2/6/87 (sub. 2); 2/11/87 w.s.; 2/13/87 (full)

Explanation prepared by: Bill Taylor

PROBLEM ADDRESSED.

Immigration Law is federal civil law. It is enforced solely by the Immigration and Naturalization Service. INS has specialized training in immigration law and its enforcement. Local law enforcement agencies have no authority to enforce immigration laws and have been successfully challenged when they have tried. These lawsuits have been costly to defend.

FUNCTION AND PURPOSE OF MEASURE AS REPORTED OUT.

This measure would codify existing law prohibiting local law enforcement agencies from enforcing immigration laws. There is no fiscal impact.

MAJOR ISSUES DISCUSSED.

The intent of the measure is to ensure that only INS enforces immigration law, and to verify that police have only the authority to enforce criminal laws. The committee discussed whether this measure would prohibit law enforcement officials from enforcing or assisting in enforcing state or federal criminal laws. It determined that this measure would not prohibit such enforcement.

EFFECT OF COMMITTEE AMENDMENTS.

VOTING:

AYES: Bauman, Bellamy, Bunn, Burton, Dix, Hanlon, Miller, Phillips, Springer

NAYS:

CARRIER: Barilla

Note: This analysis is intended for information only and has not been adopted or officially endorsed by action of the committee

64th OREGON LEGISLATIVE ASSEMBLY--1987 Regular Session

Enrolled

House Bill 2314

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Joint Interim Judiciary Committee for Hispanic Political Action Committee)

CHAPTER

AN ACT

Relating to law enforcement.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) No law enforcement agency of the State of Oregon or of any political subdivision of the state shall use agency moneys, equipment or personnel for the purpose of detecting or apprehending persons whose only violation of law is that they are persons of foreign citizenship residing in the United States in violation of federal immigration laws.

(2) Notwithstanding subsection (1) of this section, a law enforcement agency may exchange information with the United States Immigration and Naturalization Service in order to:

(a) Verify the immigration status of a person if the person is arrested for any criminal offense; or

(b) Request criminal investigation information with reference to persons named in service records.

(3) For purposes of subsection (1) of this section, the Bureau of Labor and Industries is not a law enforcement agency.

Passed by House February 20, 1987

Repassed by House June 11, 1987

.....
Chief Clerk of House

.....
Speaker of House

Passed by Senate June 9, 1987

.....
President of Senate

Received by Governor:

.....M.,....., 1987

Approved:

.....M.,....., 1987

.....
Governor

Filed by Office of Secretary of State:

.....M.,....., 1987

.....
Secretary of State

OREGON STATE SENATE
LEGISLATIVE SESSION - 1987

STAFF MEASURE ANALYSIS

Measure: HB 2314 *A-mg.*

Title: Relating to law enforcement

Committee: Senate Judiciary

Hearing Dates: 5/20/87, 6/03/87 (w/s)

Explanation prepared by: Eric Carlson, co-counsel

PROBLEM ADDRESSED.

Immigration law is federal civil law. It is enforced solely by the INS. INS agents have specialized training that state and local police and sheriffs do not have.

Local and state law enforcement agencies have no authority under federal law to enforce immigration laws, and have been successfully challenged when they have tried.

In AG Op no. 7439, dated 28 April 1977, Jim Redden stated that a police officer's right to stop, interrogate, or arrest a person must be granted to the policeman by a governmental unit. In examining Oregon law, there was no authority found for police officers to enforce federal immigration law.

Nevertheless, law enforcement personnel in some communities do from time to time stop and interrogate people using immigration law as the basis for the stop.

FUNCTION AND PURPOSE OF MEASURE AS REPORTED OUT.

The measure would codify existing practice and prohibit the use of public resources to detect or apprehend persons whose only apparent violation of law is that they are residing in the U.S. in violation of federal immigration law.

The measure does provide that law enforcement agencies may exchange information with the INS to verify immigration status and criminal offense history.

MAJOR ISSUES DISCUSSED.

Whether law enforcement agencies can be limited in the matters they are allowed to participate in.

EFFECT OF COMMITTEE AMENDMENTS.

Amendments would allow the INS to request criminal investigation information about persons who are named in INS records, and define the Bureau of Labor as not a law enforcement agency for purposes of this act.

hb2314.sma

Note: This analysis is intended for information only and has not been adopted or officially endorsed by action of the committee.

64th OREGON LEGISLATIVE ASSEMBLY--1987 Regular Session

Enrolled
~~A-Engrossed~~**House Bill 2314**Ordered by the Senate June 5
Including Senate Amendments dated June 5

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Joint Interim Judiciary Committee for Hispanic Political Action Committee).

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Prohibits state and local law enforcement agencies from enforcing immigration laws. Permits law enforcement agency to *[contact]* **exchange information with** United States Immigration and Naturalization Service in order to verify immigration status of person arrested for criminal offense or request criminal investigation information about persons named in service records. Specifies that Bureau of Labor and Industries is not law enforcement agency for purposes of prohibition.

A BILL FOR AN ACT

- 1
- 2 Relating to law enforcement.
- 3 **Be It Enacted by the People of the State of Oregon:**
- 4 **SECTION 1.** (1) No law enforcement agency of the State of Oregon or of any political subdi-
- 5 vision of the state shall use agency moneys, equipment or personnel for the purpose of detecting or
- 6 apprehending persons whose only violation of law is that they are persons of foreign citizenship
- 7 residing in the United States in violation of federal immigration laws.
- 8 (2) Notwithstanding subsection (1) of this section, a law enforcement agency may exchange in-
- 9 formation with the United States Immigration and Naturalization Service in order to:
- 10 (a) Verify the immigration status of a person if the person is arrested for any criminal offense;
- 11 or
- 12 (b) Request criminal investigation information with reference to persons named in service re-
- 13 cords.
- 14 (3) For purposes of subsection (1) of this section, the Bureau of Labor and Industries is not a
- 15 law enforcement agency.
- 16

NOTE: Matter in **bold face** in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.

*Ordered by the Senate June 5
Including Senate Amendments dated June 5*

64th OREGON LEGISLATIVE ASSEMBLY--1987 Regular Session

A. Enrolled
House Bill 2314

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Joint Interim Judiciary Committee for Hispanic Political Action Committee)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits state and local law enforcement agencies from enforcing immigration laws. Permits law enforcement agency to contact United States Immigration and Naturalization Service in order to verify immigration status of person arrested for criminal offense.

A BILL FOR AN ACT

1
2 Relating to law enforcement.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** (1) No law enforcement agency of the State of Oregon or of any political subdi-
5 vision of the state shall use agency moneys, equipment or personnel for the purpose of detecting or
6 apprehending persons whose ^{violation of law} offense is that they are persons of foreign citizenship residing in
7 the United States in violation of federal immigration laws.

8 (2) Notwithstanding subsection (1) of this section, a law enforcement agency may ^{exchange information with} ~~contact~~ the
9 United States Immigration and Naturalization Service in order to ^(a) verify the immigration status of
10 a person if the person is arrested for any criminal offense; or

11 **(1)**

6 **(b)** Request criminal investigation information with reference
7 to persons named in service records.

8 **(3)** For purposes of subsection (1) of this section, the Bureau
9 of Labor and Industries is not a law enforcement agency. **(b)**

NOTE: Matter in bold face in an amended section is new; matter [italic and bracketed] is existing law to be omitted.

64th OREGON LEGISLATIVE ASSEMBLY--1987 Regular Session

A-Engrossed House Bill 2314

Ordered by the Senate June 5
Including Senate Amendments dated June 5

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Presession filed (at the request of Joint Interim Judiciary Committee for Hispanic Political Action Committee)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Prohibits state and local law enforcement agencies from enforcing immigration laws. Permits law enforcement agency to ~~[contact]~~ **exchange information with** United States Immigration and Naturalization Service in order to verify immigration status of person arrested for criminal offense or **request criminal investigation information about persons named in service records.** Specifies that Bureau of Labor and Industries is not law enforcement agency for purposes of prohibition.

A BILL FOR AN ACT

1
2 Relating to law enforcement.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** (1) No law enforcement agency of the State of Oregon or of any political subdi-
5 vision of the state shall use agency moneys, equipment or personnel for the purpose of detecting or
6 apprehending persons whose only violation of law is that they are persons of foreign citizenship
7 residing in the United States in violation of federal immigration laws.

8 (2) Notwithstanding subsection (1) of this section, a law enforcement agency may exchange in-
9 formation with the United States Immigration and Naturalization Service in order to:

10 (a) Verify the immigration status of a person if the person is arrested for any criminal offense;
11 or

12 (b) Request criminal investigation information with reference to persons named in service re-
13 cords.

14 (3) For purposes of subsection (1) of this section, the Bureau of Labor and Industries is not a
15 law enforcement agency.
16

NOTE: Matter in **bold face** in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.

64th OREGON LEGISLATIVE ASSEMBLY-1987 Regular Session

SENATE AMENDMENTS TO HOUSE BILL 2314

By COMMITTEE ON JUDICIARY

June 5

- 1 In line 6 of the printed bill, delete "offense" and insert "violation of law".
 - 2 In line 8, delete "contact" and insert "exchange information with".
 - 3 In line 9, after "to" insert a colon and begin a new paragraph and insert "(a)".
 - 4 In line 10, delete the period and insert "; or
 - 5 "(b) Request criminal investigation information with reference to persons named in service re-
 - 6 cords.
 - 7 "(3) For purposes of subsection (1) of this section, the Bureau of Labor and Industries is not a
 - 8 law enforcement agency."
 - 9
-

①

SENATE COMMITTEE REPORT

DATE:

June 4, 1987

PRESIDENT KITZHNER:

YOUR COMMITTEE ON Judiciary TO WHOM WAS REFERRED
HB 2314, HAVING HAD THE SAME

UNDER CONSIDERATION, RESPECTFULLY REPORT IT BACK RECOMMENDING:

<input type="checkbox"/> passage. (adoption)	<input type="checkbox"/> that the measure be returned to the President's desk pursuant to SR 8.50. Letter attached requesting:
<input checked="" type="checkbox"/> passage (adoption) with amendments.	<input type="checkbox"/> A. subsequent referral to another committee; or
<input type="checkbox"/> passage with amendments to the _____ Engrossed measure.	<input type="checkbox"/> B. that subsequent referral be rescinded.
<input type="checkbox"/> passage (adoption) with amendments to resolve conflicts.	<input type="checkbox"/> that the measure be printed engrossed and rereferred to committee for further consideration.
<input type="checkbox"/> without recommendation as to passage.	<input type="checkbox"/> that _____ be substituted therefor. (SR 8.95)
<input type="checkbox"/> without recommendation as to passage; with amendments.	

Other: _____

Subsequent referral to Committee on _____

NOT CONCURRING (SR 8.60) Senator (s) _____

Senator J Hill will lead floor discussion.

Bill Frye
 Chair
 Senator Bill Frye

Submit:
 2 copies if no amdts.
 7 copies if amdts.

Rev. 3 87

Legislative Counsel
HB 2314-1
(LC 1353)
5/21/87 (1c)

PROPOSED AMENDMENTS TO HOUSE BILL 2314

1

2

In line 9 of ~~the printed bill~~, after "to" insert a colon and
begin a new paragraph and insert "(a)".

4

In line 10, delete the period and insert "; or"

5

~~After line 10, insert,~~

6

"(b) Request criminal investigation information with reference
to persons named in service records.

8

"(3) For purposes of subsection (1) of this section, the Bureau
of Labor and Industries is not a law enforcement agency."

9

In line 6, ~~of the printed bill~~ delete "offense" and insert "violation
of law".

In line 8, delete "contact" and insert "exchange
information with".

HOUSE COMMITTEE REPORT

DATE: Feb. 17, 1987

Speaker Katz:

Your Committee on JUDICIARY to whom was referred
(Name of Committee)HB 2314 having had the same under consideration, respectfully reports it back:
Bill # Engrossment☐ WITHOUT RECOMMENDATION AS TO PASSAGE☒ WITH RECOMMENDATION THAT IT☒ DO PASS☐ BE ADOPTED☐ WITH AMENDMENTS☐ WITH SECOND HOUSE AMENDMENTS☐ BE REFERRED TO WAYS AND MEANS BY PRIOR REFERENCE☐ BE REFERRED TO REVENUE AND SCHOOL FINANCE BY PRIOR REFERENCE☐ RESCIND SUBSEQUENT REFERRAL TO COMMITTEE ON _____☐ BE REFERRED TO COMMITTEE ON _____☐ BE REREFERRED TO COMMITTEE ON _____☐☐ BE PRINTED ENGROSSEDRep. Barilla

CARRIER OF MEASURE

Rep. Springer, CHAIRPERSONsubmit: 4 copies if no amendments
9 copies if amendments
retain: 1 copy for committee file-----
FOR INFORMATION ONLY - NOT PART OF COMMITTEE REPORTVOTING AYE: Bauman, Bellamy, Bunn, Burton, Dix, Hanlon, Miller, Phillips, Springer

VOTING NO: _____

EXCUSED: _____

ABSENT: _____

FOR OFFICE USE ONLY

☐

64th OREGON LEGISLATIVE ASSEMBLY--1987 Regular Session

House Bill 2314

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Joint Interim Judiciary Committee for Hispanic Political Action Committee)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits state and local law enforcement agencies from enforcing immigration laws. Permits law enforcement agency to contact United States Immigration and Naturalization Service in order to verify immigration status of person arrested for criminal offense.

A BILL FOR AN ACT

1
2 Relating to law enforcement.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** (1) No law enforcement agency of the State of Oregon or of any political subdi-
5 vision of the state shall use agency moneys, equipment or personnel for the purpose of detecting or
6 apprehending persons whose only offense is that they are persons of foreign citizenship residing in
7 the United States in violation of federal immigration laws.

8 (2) Notwithstanding subsection (1) of this section, a law enforcement agency may contact the
9 United States Immigration and Naturalization Service in order to verify the immigration status of
10 a person if the person is arrested for any criminal offense.

11

NOTE: Matter in **bold face** in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.

HB 2314

①

LC 1353
12/3/86 (dp)

MEASURE SUMMARY

Prohibits state and local law enforcement agencies from enforcing immigration laws. Permits law enforcement agency to contact United States Immigration and Naturalization Service in order to verify immigration status of person arrested for criminal offense.

A BILL FOR AN ACT

2 Relating to law enforcement.

3 Be It Enacted by the People of the State of Oregon:

4 SECTION 1. (1) No law enforcement agency of the State of
5 Oregon or of any political subdivision of the state shall use
6 agency moneys, equipment or personnel for the purpose of detecting
7 or apprehending persons whose only offense is that they are persons
8 of foreign citizenship residing in the United States in violation
9 of federal immigration laws.

10 (2) Notwithstanding subsection (1) of this section, a law
11 enforcement agency may contact the United States Immigration and
12 Naturalization Service in order to verify the immigration status of
13 a person if the person is arrested for any criminal offense.

DEC 31 1986

Pre-session Filed

HOUSE BILL BACK

Pre-session Filed

(Cross out inapplicable words)

~~RESOLUTION~~

BILL

NUMBER.....

2314

~~MEMORANDUM~~

Title:

Relating to law enforcement

Sponsored by
Committee on:

At the request of: All agencies, organizations and persons that have formally requested the measure are named herein in accordance with ORS 171.127.

JOINT INTERIM COMMITTEE ON JUDICIARY
FOR
HISPANIC POLITICAL ACTION COMMITTEE*Dick Springer*
CHIEF SPONSOR/AGENCY DIRECTOR

REP. DICK SPRINGER, Chairperson

FOR INFORMATION ONLY

Glenda Harris
CONTACT PERSON (please print or type)8-5962
TELEPHONE NUMBER

- () Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session Filed. *VR*
- () Pre-session Filed and Printed pursuant to House Rule 12.00A (2) (3).
- () Pre-session Filed pursuant to House Rule 12.00A (2) (6).

MEASURE HB2314

DATE 2 20 87

MOTION

PASSAGE X

YEAS 54	NAYS 3	ABSENT 1	EXCUSED 2	EXCUSED-HOUSE BUSINESS 0
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	Nay	Abs.	Ex.		Nay	Abs.	Ex.		Nay	Abs.	Ex.
AGRONS				GILMOUR				MINNIS			
ANDERSON	N			GOLD				NORRIS			
BARILLA				HANLON				PARKINSON			
BAUMAN				HANNEMAN				PETERSON			
BELLAMY				HAYDEN				PHILLIPS			
BROGOITTI			1	HOOLEY				PICKARD			
BUNN				HOSTICKA				ROBERTS			
BURTON				HUGO				SAYLER			
BUTSCH				JOHNSON				SCHOON			
CALOURI				JOLIN				SCHROEDER			
CAMPBELL			1	JONES D.				SHIPRACK			
CARTER				JONES D. E.				SIDES			
CEASE				KOPETSKI		A		SOWA			
DIX				KOTULSKI				SPRINGER			
DWYER				MARKHAM				TRAHERN	N		
EACHUS				MASON				VAN VLIET			
FAWBUSH				MCCARTY				VANLEEUNEN			
FORD				MCCRACKEN				WHITTY			
FRENCH				MCTEAGUE				YOUNG			
GILMAN	N			MILLER				SPEAKER KATZ			

1 = Excused 2 = Excused for business of the House

MEASURE HB2314A

DATE 6 11 87

MOTION

PASSAGE X

YEAS 58

NAYS 1

ABSENT 0

EXCUSED 1

EXCUSED-HOUSE BUSINESS 0

	Nay	Abs.	Ex.		Nay	Abs.	Ex.		Nay	Abs.	Ex.
AGRONS				GILMOUR				MINNIS			
ANDERSON				GOLD				NORRIS			
BARILLA				HAMMERSTAD				PARKINSON			
BAUMAN				HANLON				PETERSON			
BELLAMY				HANNEMAN				PHILLIPS			
BROGOITTI				HAYDEN				PICKARD			
BUNN				HOSICKA				ROBERTS			
BURTON				HUGO				SAYLER			
BUTSCH				JOHNSON				SCHOON			
CALOURI				JOLIN		1		SCHROEDER			
CAMPBELL				JONES D.				SHIPRACK			
CARTER				JONES D. E.				SIDES			
CEASE				KOPETSKI				SOWA			
DIX				KOTULSKI				SPRINGER			
DWYER				MARKHAM				TRAHERN	N		
EACHUS				MASON				VAN VLIET			
FAWBUSH				MCCARTY				VANLEEUWEN			
FORD				MCCRACKEN				WHITTY			
FRENCH				MCTEAGUE				YOUNG			
GILMAN				MILLER				SPEAKER KATZ			

1 = Excused 2 = Excused for business of the House

Ordered printed by the Speaker pursuant to House Rule 12.00A (5).
Presession filed

(at the request of Joint Interim Judiciary Committee for Hispanic
Political Action Committee)

Relating to law enforcement.

Engrossed *by Senate June 5*
Printed A *by Senate June 5*
Re-engrossed
Printed B
Eng Re-eng
Printed C
Re-eng Re-eng
Printed D
Eng Re-eng Re-eng
Printed E
ENROLLED *June 1*

HOUSE ACTION		SENATE ACTION	
READ FIRST TIME, REFERRED TO SPEAKER'S DESK <i>JAN 16 1987</i>	REFERRED <i>JAN 21 1987</i>	READ FIRST TIME, REFERRED TO PRESIDENT'S DESK <i>2-23-87</i>	REFERRED <i>2-24</i>
REFERRED TO <i>Judiciary</i>		REFERRED TO <i>Judiciary</i>	
REPORTED BACK <i>FEB 18 1987</i>	WITH THE RECOMMENDATION THAT IT <i>↓</i>	REPORTED BACK <i>6-5-87</i>	WITH THE RECOMMENDATION THAT IT <i>↓</i>
<input checked="" type="checkbox"/> DO PASS <input type="checkbox"/> DO PASS WITH AMENDMENT		<input type="checkbox"/> DO PASS <input checked="" type="checkbox"/> DO PASS WITH AMENDMENT	
REFERRED TO		REFERRED TO	
REPORTED BACK	WITH THE RECOMMENDATION THAT IT <i>↓</i>	REPORTED BACK	WITH THE RECOMMENDATION THAT IT <i>↓</i>
<input type="checkbox"/> DO PASS <input type="checkbox"/> DO PASS WITH AMENDMENT		<input type="checkbox"/> DO PASS <input type="checkbox"/> DO PASS WITH AMENDMENT	
READ SECOND TIME <i>FEB 19 1987</i>	READ THIRD TIME AND <i>PASSED FEB 20 1987</i>	READ SECOND TIME <i>6-5-87</i>	READ THIRD TIME AND <i>PASSED 6-9-87</i>
SIGNED <i>Harmon J. Henry</i> DATE <i>Harmon J. Henry</i>	SIGNED <i>Maribel Codrue</i> DATE <i>JUN 11 1987</i>	SECRETARY OF SENATE CONCURRED IN SENATE AMENDMENTS AND REPASSED	

ADDITIONAL ACTION — See Inside

Bills to be considered:
HB 2195, 2288, 2314
HB2093, 2087, 2062
HB 2063, 2064

HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE 2

February 6, 1987
1:30 p.m.
Tapes: 94-99

Hearing Room 350
Salem, Oregon

MEMBERS PRESENT: REPRESENTATIVE JUDY BAUMAN
REPRESENTATIVE RANDY MILLER
REPRESENTATIVE PAUL PHILLIPS
REPRESENTATIVE DICK SPRINGER, ACCT. CHAIR

STAFF PRESENT: BILL TAYLOR, CO-COUNSEL
GLORIA FISHER, ASSISTANT

WITNESSES: DANNY SANTOS, HISPANIC POLITICAL ACTION COMM.
REPRESENTATIVE ROCKY BARILLA
ROBERT MENDOZA, COMMISSION ON HISPANIC AFFAIRS
STEPHEN PEIFER, DEPARTMENT OF JUSTICE
WALTER TODD, CRIMINAL DEFENSE LAWYERS ASSOC.
SCOTT WEINEGER, PORTLAND POLICE BUREAU
BILL LINDEN, STATE COURT ADMINISTRATOR
STEVE JACOBSON, METROPOLITAN PUBLIC DEFENDERS
JOHN MOSSER, COMMISSION ON THE JUDICIAL BRANCH
JUDGE NELLY JOHNSON, COMMISSION ON THE JUDICIAL
BRANCH
NORMAN MYER, LANE CO. TRIAL COURT ADMINISTRATOR
BOB GELTZ, DEPARTMENT OF REVENUE
GERRI CHRISTENSEN, DEPARTMENT OF JUSTICE
PEGGY RAY, EUGENE MUNICIPAL COURT
ULYS STAPLETON, D.A., LINCOLN COUNTY
TONY DELORENZO, MOTOR VEHICLE DIVISION

000 REPRESENTATIVE SPRINGER called the hearing to order. Present
were REPRESENTATIVES BAUMAN, MILLER, PHILLIPS, SPRINGER.
REPRESENTATIVE BURTON WAS EXCUSED.

004 HOUSE BILL 2314 RELATING TO CRIME PREVENTION; AMENDING ORS
131.605 AND 131.625.

DANNY SANTOS, Hispanic Political Action Committee, said the
bill would forbid local law enforcement people from being
involved in enforcement of the immigration law. Immigration
is civil in nature; the problem with law enforcement is that
the minority, and particularly the Hispanic community, are
subjected to harassment and invasion of privacy. The
authority to enforce this law lies in INS and they are
trained to do it. Local law enforcement officers are not
trained and not up to date on the law. The result is that

House Judiciary Committee
Subcommittee 2
February 6, 1987
Page 2

Hispanics are faced with an imposition on privacy and with harassment. This bill would focus law enforcement on criminal activity. It would be a financial savings, keeping time on law enforcement, and reduce costs of liability for defense of counties and cities against civil rights charges. Several cases have shown that local authorities have no authority to enforce immigration law. In the 1983 Session the Counsel for INS said it is the role of INS to enforce immigration law. He will supply that testimony. (EXHIBIT A)

- 066 REP. ROCKY BARILLA said they see this bill as having public policy points; priority for law enforcement should be protection of life and property. Liability can be incurred because of improper stopping people. In terms of fiscal impact and priority of enforcement, attempted enforcement is a waste of person hours. In terms of prison crowding, there are illegal aliens who have not broken a law but are incarcerated. The U.S. Congress has passed the Immigration Reform Act which is over 100 pages and it is impossible to tell who is legal, who is illegal. They do not oppose criminal laws enforced against alliens; this bill is simply to prohibit enforcement of immigration law. (EXHIBIT B)
- 104 ROBERT MENDOZA, COMMISSION ON HISPANIC AFFARIS, said that U.S. citizens are detained and harassed because of color or dress. The majority of law enforcement agencies do not attempt to enforce immigration law, but there are some who cause concern. This law would make clear the role of all local enforcement bodies. (EXHIBIT C)
- 132 REPRESENTATIVE SPRINGER asked for background on the issue. REP. BARILLA said this bill had passed the house alost unanimously last Session. REPRESENTATIVE PHILLIPS asked what organizations are against. BARILLA said he thinks the DDA is opposed to the bill; sheriffs and police are on both sides.

REPRESENTATIVE SPRINGER asked how many Hispanics are in law enforcement. MR. MENDOZA said there are only a handful of state police. REPRESENTATIVE SPRINGER said a goal is to improve participaton. MR. MENDOZA said there is a need for understanding of Spanish. REPRESENTATIVE SPRINGER asked how many Hispanics in Oregon. MR. MENDOZA said there are about 200,000.

REPRESENTATIVE PHILLIPS asked whether the Hispanic Commission was involved in the Portland Police Bureau training program on Spanish. MR. M. did not know. MR. MENDOZA said he had asked Chief Harrington regarding the Bureau's enforcement of immigration law and she responded that they would not be involved.

House Judiciary Committee
Subcommittee 2
February 6, 1987
Page 3

REPRESENTATIVE MILLER asked how this bill compared to the last bill. REP. BARILLA said it is nearly identical, there are some changes. The vote in the House in 1985 was 59-1.

- 194 REPRESENTATIVE SPRINGER called to order the hearing on House Bill 2195 RELATING TO CRIME PREVENTION; AMENDING ORS 131.605 AND 131.625.

STEPHEN PEIFER said that police officers who stop persons to issue minor citations cannot frisk for weapons and have been shot. This bill would provide protection. In the case of less than an ounce of marijuana, the officer cannot presume that the person is involved in other drug activity so cannot frisk. There are many reasons why a person stopped in a non-criminal situation may want to resist, ie parole violators. It is not authority to conduct a full search, but an extension of stop and frisk to allow a pat-down. There must be articulable reasons why the officer performs the frisk. The stop and frisk was enacted in 1973; at that time all traffic offenses were crimes so officers were protected. This statute does not create constitutional problems.

- 300 WALTER TODD, OCDLA, said the likelihood of abuse by officers is clear. It is not his position that there would be bad faith but the potential is there to make frisks when the totality of factors is not present. The primary example would be where, as in Marion County, there is a list of targetted persons. The police officer, being aware, could make a stop for a routine traffic violation and create a situation for a frisk. The 4th Amendment guarantees freedom from unreasonable search and seizure. Finding a hard object would lead to a search. There is an interest of the citizenry in remaining free of search. The citizen would not have to make any type of move or statement to make the officer believe he had a weapon or contraband. This would permit an officer to search a person with a suspected offense -- could include city ordinances, traffic, etc. This does not mean that an officer does not have the ability to frisk if he has probably cause to believe the person has a weapon or other illegal goods.

- 409 REPRESENTATIVE SPRINGER asked if Mr. Todd was a DA in Oregon. MR. TODD replied that he was a DA in Marion County. REPRESENTATIVE SPRINGER asked if an officer felt something that contained contraband, would that evidence be admissible if the person was charged. MR. TODD said it would if the person was arrested. If the officer felt an object he thinks might contain drugs, he could say that was his belief. The probable cause might be stretched to that point. REPRESENTATIVE SPRINGER asked if an officer's reasonable belief is challenged, and the officer is testifying under oath, who often is his belief of probable cause not sustained. MR. TODD said the judge will stretch it to the absolute limit to support the officer. REPRESENTATIVE

House Judiciary Committee
Subcommittee 2
February 6, 1987
Page 11

one or two other bills. One imposes additional penalties. REPRESENTATIVE SPRINGER asked if he has any sense of the record of convictions for driving without insurance. MR. DELORENZO will provide this information. He said the number of convictions is up substantially.

MR. PHILLIPS MOVED THAT HB 2064 BE ADOPTED WITH A DO PASS RECOMMENDATION. AYS: BAUMAN, MILLER, PHILLIPS, SPRINGER. NOS: NONE. EXCUSED: BURTON.

MR. DELARENZO said in 1986 there were 13,943 convictions for driving uninsured. In 1985 there were 7,898. A fine can be imposed; the person has to file proof of insurance for 3 years. A mandatory suspension follows an uninsured accident.

REPRESENTATIVE SPRINGER said another work session will be scheduled in about a week to deal with HB 2062 and HB 2063.

Submitted by,

Gloria Fisher,
Assistant

EXHIBITS:

- A - HB 2314: Testimony of Danny Santos, HPAC
- B - HB 2314: Testimony of Rep. Rocky Barilla
- C - HB 2314: Testimony of Robert Mendoza, Commission on Hispanic Affairs
- D - HB 2195: Testimony of Stephen Peifer, Justice Department
- E - HB 2087: Statement in support, Commission on the Judicial Branch.
- F - HB 2087: Criminal and Quasi-criminal fines, fees, etc.
- G - HB 2087: Typical Assessments/Distribution
- H - HB 2087: Proposed Amendment, Multnomah Co. Victims Assistance Unit, District Attorney's Office.
- I - HB 2087: Positive effects, Judicial Department
- J - HB 2087: Proposed amendments, Department of Revenue
- K - HB 2087: Testimony of Gerri Christensen, Crime Victims Program, Justice Department.
- L - HB 2062: Statement, Motor Vehicle Division
- M - HB 2063: Statement, Motor Vehicle Division
- N - HB 2062: Blood alcohol levels in other jurisdictions
- O - HB 2064: Profile of uninsured drivers (Archives only)

HOUSE JUDICIARY

Bill No. 2314 Pages 2
 Exhibit A Date 2/6/87
 Presented by Santos

February 6, 1987

To: House Judiciary Committee
 From: Danny Santos, State President of HPAC
 Re: House Bill 2314

Dear Committee Members:

The Hispanic Political Action Committee is concerned about the enforcement of federal immigration laws by local, county and state law enforcement agencies. Such attempts by Oregon officials to enforce these federal laws has had an adverse affect on community relations with the Hispanic citizenry. We believe that HB 2314 will help solve this problem and we respectfully request your support.

THE LAW

Under the United States Constitution's Pre-emption Clause, the Immigration and Naturalization Act (8 USC 1101 et seq.), U.S. Attorney General Bell's Opinion, Oregon Attorney General Redden's Opinion (No. 7439, April 28, 1977), and several court decisions, it is clear that state and local law enforcement officers have no authority to enforce federal immigration laws. The authority to enforce immigration laws is delegated to the Immigration and Naturalization Service (INS) under 8 USC 1357.

THE PROBLEMS

The majority of law enforcement agencies seem to understand the law and do not attempt to enforce immigration laws. However, some local law enforcement agencies have attempted to enforce immigration laws by themselves or in conjunction with the INS. The justification for these illegal practices are threefold: 1) they have done it in the past and do not understand why they can not continue to do so; 2) they are sworn to uphold the laws of this country and they are doing so by looking for illegal aliens; 3) they do not understand the law because there is no state statute covering this matter. The statutes, legal opinions, and the courts all indicate that such rationales are invalid. In Oregon there have been several lawsuits regarding these illegalities [Trevino v. City of Independence Police and Polk County Sheriff (1977)].

RAMIFICATIONS OF ILLEGAL ENFORCEMENT

1) Hispanic and other ethnic minorities, citizen and non-citizen alike, are detained, interrogated, and harassed by local law enforcement agencies on the basis of skin color, language, and dress. This is a violation of one's right to privacy and equal protection. Hispanics and other minorities are treated as second class citizens.



Hispanic Political Action Committee

2) Local law enforcement agencies are not trained in immigration law. Local police are usually trained only in criminal law which remains fairly constant. Immigration law, however, is not criminal, but civil law, and is constantly changing. INS agents are specially trained in the enforcement of immigration laws. (Please note that local law enforcement agencies do not enforce the federal tax laws which are also civil)

3) High priority criminal law enforcement and investigation is being subdued for the purpose of enforcing low priority, non-criminal matters. This does not set well with the local taxpayers, especially the Hispanic taxpayers, when local law enforcement agencies are trying to justify their budgets.

4) Local governments run the risk of incurring liability for violating a person civil rights. Governments then have to expend monies out of their coffers in defending these types of cases. They are also quite time consuming. In most cases, a local government's insurance does not cover civil rights violations, and therefore, additional legal costs will be incurred.

THE BILL ITSELF

The purpose of this bill is to resolve the problem of local law enforcement agencies attempting to enforce federal immigration laws. The bill would be a restatement of what the law is and will give an Oregon statute citation as to what the law is. Hopefully, this bill will assist law enforcement agencies in better understanding what the law is. The bill would reiterate the fact that only the INS has the authority to enforce federal immigration laws. The bill would not interfere with law enforcement agencies' enforcement of criminal laws. Under the bill, local police are allowed to contact INS if an alien is arrested in a criminal matter.

LEGISLATIVE BACKGROUND

This bill passed the House as HB 2450 in 1983 by a vote of 40-11 and passed the House in 1985 as HB 2337 by a vote of 54-1.

If we may be of any further assistance on this bill or any other matter, please do not hesitate to contact us.

Rebecca Crocker
Legislative Liaison
362-7905

Danny Santos
State President
370-8889/6057

Thank you for your consideration and service.



HOUSE OF REPRESENTATIVES
SALEM, OREGON
97310

HOUSE JUDICIARY

Bill No. 2314 Pages 1
Enact 6 Date 2/6/87
Presented by Barilla

Testimony to be given by Rep. Rocky Barilla
Friday, Feb. 6, 1987
Subject: HB 2314

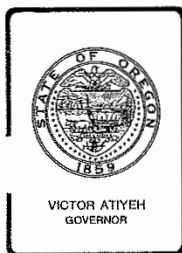
Dear Chairperson Springer and House Judiciary Members,

This measure clarifies that only the Immigration and Naturalization Service can enforce federal immigration laws, and codifies that police have only the authority to enforce criminal laws.

There is no authority for local law enforcement agencies to enforce immigration laws. Immigration law is federal civil law which is enforced only by the Immigration and Naturalization Service. Law enforcement agencies have authority to enforce criminal law. ORS 181.030 (1) states that "The Department of State Police and each member of the Oregon State Police shall be charged with enforcement of all criminal laws." No mention is made of whether the term "all criminal laws" means violations of federal law. Local police have no authority to enforce other federal civil laws, for example, the Federal Clean Water Act.

There is an Attorney General's Opinion of April 28th, 1977, stating that state and local law enforcement officers have no authority to enforce United States Statutes and regulations regarding immigration and naturalization. A state or local enforcement officer may only stop and detain a suspected alien if the officer has probable cause to do so for possible violations of a state or local criminal law.

Immigration law is a federal, not a state and local, issue. The state and local governments have enough to do with enforcing their own laws and regulations. A high priority for the law enforcement is protection of persons and property.



HOUSE JOURNAL
Bill No. 2314 Pages 1
Ed. A. C. Date 2/6/87
Presented by Mendoza

Commission on Hispanic Affairs

695 SUMMER STREET NE., SALEM, OREGON 97310 PHONE 373-7397

February 6, 1987

To: Committee Members
From: Commission on Hispanic Affairs

Dear Committee:

The Commission on Hispanic Affairs would like to take this opportunity to lend their support to House Bill 2314. The Commission on Hispanic Affairs does not believe that the enforcement of federal immigration laws by our local law enforcement agencies is in the best interest of our state because of the adverse effect it has had and would have on our Hispanic citizenry. We therefore urge your support on House Bill 2314.

While most of the controversy today is over illegal immigration there is hardly any discussion of LEGAL immigration into this country. The ramifications of ILLEGAL ENFORCEMENT is such that Hispanics and other ethnic minorities, including United States citizens, are detained, interrogated, and harassed by local law enforcement agencies on the mere bases of color, language, and dress, a clear violation of one's constitutional rights. Hispanics, whether they be American citizens or legal immigrants are entitled to the same rights and protections as any other citizen. Local police are usually only trained in criminal law, immigration law, however, is not criminal, but civil law which is constantly changing. Further more, local governments have to expend money out of there own pockets to pursue this type of law enforcement. High priority criminal law enforcement and investigation moneys have been and would be diverted for the purpose of enforcing low priority, non-criminal matters.

The majority of law enforcement agencies seem to know and understand the Law and do not attempt to enforce immigration law, and those agencies do not concern us. However, It is the local law enforcement agencies that have attempted to enforce immigration law on their own or in conjunction with the INS that cause us to have grave concern. We of the Hispanic Commission respectfully urge your support of House Bill 2314 on the basis that this law would put into perspective for all local law enforcement agencies in the State of Oregon their role in the enforcement of federal immigration law. House Bill 2314 is a restatement of what the Law is and will give an Oregon statute citation of what the law is. Thank you.

Robert Mendoza

R. Mendoza
Commissioner

HB 2331, 2383, 2389,
2393

HOUSE JUDICIARY COMMITTEE
SUBCOMMITTEE 2

February 11, 1987
1:30 p.m.

Hearing Room 350
Salem, Oregon

Tapes 112-117

MEMBERS: REP. MIKE BURTON, CHAIR
REP. JUDITH BAUMAN
REP. RANDY MILLER
REP. PAUL PHILLIPS
REP. DICK SPRINGER

STAFF PRESENT: BILL TAYLOR, COUNSEL
DEBORAH FLAGER, ASSISTANT

WITNESSES: RON MCCARTY, STATE REPRESENTATIVE, DISTRICT 16
EDWARD S. MCGLONE, OREGON BOARD OF DENTISTRY
DON ORR, POLAR CRYOGENICS
BILL DWYER, STATE REPRESENTATIVE, DISTRICT 42
RICK KOTULSKI, STATE REPRESENTATIVE, DISTRICT 22
LARRY SOWA, STATE REPRESENTATIVE, DISTRICT 26
TEX SHIVELY, PRIVATE CITIZEN
JOHN NICHOLS, OREGON STATE RIFLE AND PISTOL
ASSOCIATION
BRYAN JUDY, NATIONAL RIFLE ASSOCIATION
LEONARD ZYGAR, PRIVATE CITIZEN
LARRY LORD, MARION COUNTY SHERIFF'S ASSOCIATION
JOHN MINNIS, STATE REPRESENTATIVE, DISTRICT 20
SY KORNBROD'T, FEDERATION OF OREGON PAROLE
AND PROBATION OFFICERS
MARY BOTKIN, AFSCME
MICHAEL LINCICUM, PRIVATE CITIZEN
LT. JAMES STEVENSON, OREGON STATE POLICE
VINITA HOWARD, MOTOR VEHICLES DIVISION
BRADD SWANK, OREGON JUDICIAL DEPARTMENT
DON FORDYCE, U.S. BANK
MARK MCDUNNELL, GOVERNOR'S DUII TASK FORCE
JANE AIKEN, GOVERNOR'S DUII TASK FORCE

House Judiciary Committee
Subcommittee 2
February 11, 1987
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said there might be many groups competing for the funds and he indicated that in probation and diversion hearings people say they cannot afford treatment. Proceeds might go for treatment.

- 108 BILL TAYLOR asked if Oregon constitution would prohibit the proceeds from going to pay administrative costs. MR. MCDUNNELL said he was not aware of that provision. MS. AIKEN said they have not researched that issue because they have not drafted the forfeiture legislation but they will look for that information and would provide to counsel.
- 122 REPRESENTATIVE BURTON closed the hearing on HB 2389 and called a brief recess at 4:25 p.m.

HB 2314 - RELATING TO LAW ENFORCEMENT.

- 137 REPRESENTATIVE BURTON reopened the meeting at 4:36 p.m.
- 144 REPRESENTATIVE SPRINGER made a motion to move to full committee with a do pass recommendation. The motion was seconded by REPRESENTATIVE BAUMAN. THE MOTION PASSED WITHOUT OBJECTION.
- 156 REPRESENTATIVE BURTON closed the hearing at 4:40 p.m.

Submitted by,

Deborah Flager
Deborah Flager
Committee Assistant

EXHIBITS:

- A - HB 2331, testimony, Edward McGlone
B - HB 2393, testimony, Rep. Larry Sowa
C - HB 2393, testimony, Tex Shively
D - HB 2393, testimony, Leonard Zygar
E - HB 2393, concealed weapon permit application, Leonard Zygar
F - HB 2383, testimony, John Minnis

House Judiciary Committee
Subcommittee 2
February 11, 1987
Page 15

- G - HB 2389, testimony, Michael Lincicum
- H - HB 2389, testimony, Lt. James Stevenson
- I - HB 2389, testimony, Vinita Howard
- J - HB 2389, testimony, Bradd Swank

HOUSE COMMITTEE ON JUDICIARY

February 13, 1987
TAPE 125

HEARING ROOM 350
STATE CAPITOL

MEMBERS PRESENT: REP. DICK SPRINGER, Chair
REP. TOM HANLON, Vice-Chair
REP. JUDITH BAUMAN
REP. BILL BELLAMY
REP. STAN BUNN
REP. MIKE BURTON
REP. DAVE DIX
REP. RANDY MILLER
REP. PAUL PHILLIPS

STAFF PRESENT: BILL TAYLOR, Legal Counsel
GLENDA HARRIS, Chief Committee Assistant

005 REPRESENTATIVE SPRINGER called the meeting to order at 1:40.
All members were present.

REPRESENTATIVE SPRINGER noted the list of bill drafts which
is before the committee for possible introduction today.
(Exhibit A).

022 MOTION: REPRESENTATIVE BUNN moved introduction of the bills
which were listed, with the caveat that approval for
introduction indicates no position whatsoever as it relates
to the merits of the legislation, as contained therein.

VOTE: The motion passed without objection.

WORK SESSION

HOUSE BILL 2064 - Relating to motor vehicles

031 BILL TAYLOR, Counsel reviewed HB 2064 for the full committee.

050 MOTION: REPRESENTATIVE BURTON Moved HB 2064 to the House
Floor with a do pass recommendation.

VOTE: The motion passed in a roll call vote. All members
were present and voted AYE. Representative Bauman will carry
the bill.

Page 2
House Judiciary Committee
February 13, 1987

HOUSE BILL 2314 - Relating to law enforcement

- 063 COUNSEL TAYLOR reviewed HB 2314 for the full committee. He said this bill is the same as the bill which passed out of this committee two years ago
- REPRESENTATIVE BURTON moved HB 2314 to House Floor with a Do Pass recommendation.
- 077 REPRESENTATIVE HANLON said it was understanding there has occurred recently, activity within the jurisdiction of Oregon, on the Columbia river - people without green cards, Canadian citizens - that may be in conflict with some of the activities that occur in the state of Oregon and work performed by citizens of the United States, involving the loading and unloading of timber based resources. He asked if this bill would affect Oregon's ability to deal with this situation.
- COUNSEL TAYLOR indicated he thought it codified the existing opinion. He read from the Attorney General's Opinion 38, 7/5/77. He thought this bill would save many state and local officials from the possibility of suit for acting illegally.
- 106 REPRESENTATIVE HANLON clarified there might be other laws involved relating to labor laws, separate and apart from the immigration laws, and Counsel was saying this would not affect the state's ability to get involved in the situation he had described.
- 115 REPRESENTATIVE MILLER asked if the terminology "initiate enforcement activities" would in any way distinguish the initiation of enforcement activities versus somehow or at some point they were asked to participate after such proceedings had been initiated.
- COUNSEL said that in his opinion, there would be no distinction - they could not initiate nor could they participate in any stage.
- 123 REPRESENTATIVE BELLAMY referred to lines 8-10 which allows them to contact, particularly for the purpose of their file. He agreed that it would not allow any law enforcement agency in this state to participate; if the feds were going to do a roundup, they would do it with their own vehicles and their own officers.
- 136 REPRESENTATIVE BURTON said Section 1 clarified there was no use of agency moneys, personnel or resources; in Section 2, however, if a person was arrested in the commission of a different crime, and a check was made with INS, he thought that would be an opportunity for INS to follow up. That is not initiating, that is checking status.

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House Judiciary Committee
February 13, 1987

150 VOTE: The motion passed in a roll call vote. All members were present and voted AYE.

158 REPRESENTATIVE PHILLIPS questioned when the Committee might be looking at committee rules.

REPRESENTATIVE SPRINGER asked that if any members had any suggestions on how rules ought to be drafted, they get those suggestions to him or to staff the first part of next week. He said he would anticipate scheduling full committee not later than the end of next week to take up that matter.

172 REPRESENTATIVE SPRINGER adjourned the hearing at 1:55 PM.

Submitted by,

Glenda Harris,
Chief Assistant

EXHIBITS:

A - List of drafts submitted for bill introduction, Staff.

BILLS CONSIDERED:
SB 219, 566, 847
HB 2291, 2293,
2298, 2304, 2314,
2724

SENATE COMMITTEE ON JUDICIARY
64th LEGISLATIVE SESSION

May 20, 1987
Tapes 151-153

Hearing Room 343
State Capitol

MEMBERS PRESENT:

SENATOR WILLIAM (BILL) FRYE, CHAIRMAN
SENATOR JAN WYERS, CO-CHAIRMAN
SENATOR JOHN BRENNEMAN
SENATOR PETER BROCKMAN
SENATOR JOYCE COHEN (EXCUSED)
SENATOR JEANNETTE HAMBY
SENATOR JIM HILL

STAFF PRESENT:

ERIC CARLSON, ADMINISTRATOR
PAM WATTS, COMMITTEE ASSISTANT

WITNESSES:

SENATOR CLIFFORD TROW
REPRESENTATIVE ROCKY BARILLA
DANNY SANTOS, HISPANIC POLITICAL ACTION COMMITTEE
KELLY HAGAN, BUREAU OF LABOR
LEE ERICKSON, OREGON STATE POLICE
SENATOR LARRY HILL
BONNIE SMITH
REPRESENTATIVE PAUL PHILLIPS
BOB OLESON, OREGON STATE BAR
DIANA GODWIN, OREGON STATE BAR
THAD GUYER, MEDFORD ATTORNEY
DAVID MARCUS, OREGON ASSOCIATION OF ADMINISTRATIVE LAW
JUDGES
TERRY ROGERS, LEGAL AID
BRADD SWANK, STATE COURT ADMINISTRATOR'S OFFICE
RICHARD BRAY, OREGON ASSOCIATION OF PROCESS SERVERS
JIM SWANSON, LINCOLN CREDIT
RON SOMERS, OREGON STATE BAR
JASON CROWE, OREGON ASSOCIATION OF PROCESS SERVERS
BOB DONALDSON, SALEM ATTORNEY

TAPE 151, SIDE A

009 CHAIRMAN BILL FRYE called the meeting to order at 5:07 p.m. Present at that time were SENATORS FRYE and WYERS and COUNSEL CARLSON.

WORK SESSION

SB 219 - Relating to public records

016 SENATOR CLIFF TROW read his written testimony (EXHIBIT A) in support of amendments to Section 3, Subsection (1)(0) proposed by the State System of Higher Education. He referred to written testimony by Hewlett-Packard Company and Tektronix, Inc. in support of the proposed amendments (EXHIBITS B and C).

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Senate Committee
on Judiciary
May 20, 1987

5:10 SENATOR BROCKMAN arrived.

052 SENATOR TROW urged amendment of SB 219 in order to protect higher education research and project design so that researchers have some guarantee that their work can proceed without being stolen or interfered with.

057 CHAIRMAN FRYE asked if Senator Trow's concern was to page 3, lines 32-33. SENATOR TROW agreed.

060 SENATOR TROW referred to the amendment proposed by the Oregon State System of Higher Education (EXHIBIT D).

5:11 SENATOR BRENNEMAN arrived.

PUBLIC HEARING

HB 2314 - Relating to law enforcement

095 REPRESENTATIVE ROCKY BARILLA testified in support of HB 2314 and paraphrased his written testimony (EXHIBIT E).

5:16 SENATOR HAMBY arrived.

120 REPRESENTATIVE BARILLA continued reading his testimony.

127 CHAIRMAN FRYE asked if HB 2314 would prevent an officer from taking an illegal alien into custody if he was stopped on probable cause and the officer determined there was no probable cause to make an arrest, but in the course of the authorized identification gathering process, the officer found that this person was an illegal alien. REPRESENTATIVE BARILLA answered yes and said the present policy with the Oregon State Police is that they will not arrest a person on that basis. If there was a reason to arrest the person, the police would arrest him and then call Immigration authorities.

138 DANNY SANTOS, representing the Hispanic Political Action Committee, summarized his written testimony in support of HB 2314 (EXHIBIT F). MR. SANTOS said the purpose of HB 2314 is to resolve the problem of local law enforcement agencies attempting to enforce federal immigration laws.

158 CHAIRMAN FRYE referred to a letter by the Bureau of Labor and Industries proposing an amendment to HB 2314 (EXHIBIT G).

164 REPRESENTATIVE BARILLA was aware of the proposed amendment and had no problem with it.

167 SENATOR HAMBY recalled that a bill was introduced last session dealing with confidentiality of school records and preventing local law enforcement agents from entering schools and pulling out suspected aliens. MR. SANTOS believed that bill had passed last session.

175 KELLY HAGAN, representing the Bureau of Labor and Industries, submitted proposed amendments by the Bureau (EXHIBIT G). He said they would consider it a severe if not fatal restriction of their enforcement efforts in farm labor contracting if they were considered a law enforcement agency under this bill.

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Senate Committee
on Judiciary
May 20, 1987

- 187 LT. LEE ERICKSON, representing the Oregon State Police Criminal Division, paraphrased his written testimony in opposition to HB 2314 (EXHIBIT H). They are in opposition to the bill due to wording in Section 2. He advised that the Oregon State Police, by written policy, does not involve itself in the enforcement of federal immigration laws. He said Section 2 would prohibit their ability to contact the U.S. Immigration and Naturalization Service during an investigation, many times where an illegal immigrant is the victim of the crime.
- 208 CHAIRMAN FRYE asked if striking the words on line 10 beginning with "if" would take care of this.
- 212 OFFICER ERICKSON said the OSP would like to have the ability to contact the U.S. Immigration and Naturalization Service to request investigative information with reference to persons named in their files.
- 216 CHAIRMAN FRYE asked Representative Barilla and Lt. Erickson to work on proposed language.

PUBLIC HEARING

SB 847 - Relating to land sale contract foreclosure

- 227 SENATOR LARRY HILL, chief sponsor of SB 847, introduced Bonnie Smith, a constituent, and read his written testimony (EXHIBIT I). SENATOR HILL said SB 847 would add remedies for forfeitures under land sales contracts. He explained that it would add provisions that when a purchaser had an unpaid balance of 100%, there is a 10-day period from delivery of the notice to the time that forfeiture is accomplished, and if the purchaser has an unpaid balance between 90-100%, there is a 30-day period, and then the existing law of a 60-day period would take over when the purchaser has an unpaid balance on the contract of more than 75% but less than 90%. SENATOR HILL suggested in Subsection 4 that proceedings initiated pursuant to this new language have priority on the court docket of jurisdiction over all other cases except those given equal or greater status by statute. SENATOR HILL explained that accomplishing a forfeiture is difficult and the remedy through court is very slow, and landlord-tenant law does not apply in the case of land sales contracts. He said SB 847 would help speed up resolution to these problems.
- 285 BONNIE SMITH, a real estate broker and small investor, testified in support of SB 847. She explained that currently if a buyer signs an earnest money to move into a property and agrees to make a down payment at a certain time and does not make it, there is no way to get that buyer off the property, that landlord-tenant law does not apply, and the seller has to go through circuit court to get the buyer out of the property, which often takes 9-10 months to accomplish. MS. SMITH said it cost her thousands of dollars to get the buyer off her property and she had no remedies to enforce the buyer to even pay rent. She felt this might be remedied by putting a clause in the land sales contract to the effect that if a buyer does not live up to his obligations, then he would come under SB 847 or the landlord-tenant law.
- 309 CHAIRMAN FRYE asked Mrs. Smith if the prospective buyer in the case she talked about signed an actual contract. MS. SMITH said the buyer signed only an earnest money agreement and he did not follow through and do anything as

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Senate Committee
on Judiciary
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PUBLIC HEARING

SB 307 - Relating to administrative procedures

145 CHAIRMAN FRYE said the public hearing on SB 307 would be put on as the first item on the 5/21/87 agenda.

WORK SESSION

HB 2298 - Relating to perpetuation of testimony by deposition

157 COUNSEL CARLSON explained that HB 2298 would provide a procedure by which an attorney may serve notice that he wishes to take a deposition to perpetuate testimony; the notice requirements are the same as for any other deposition; if an opposing attorney objects, he files an objection with the court and a hearing is set, the objections are presented and the party which noticed the perpetuation deposition then has the burden of showing that it is appropriate. The purpose of the bill is to add flexibility to the current law on perpetuation depositions which currently can only be taken if there is a showing that the witness essentially will not be able to attend for primarily physical reasons. COUNSEL CARLSON said HB 2298 recognizes that the interest of the witness should be taken into account as well as the interests of the judge, plaintiff, defendant, and attorneys.

182 **MOTION:** SENATOR HAMBY moved HB 2298 to the floor with a Do Pass recommendation.

VOTE: In a roll call vote, all members present voted AYE, with SENATOR COHEN excused. The motion passed.

185 CHAIRMAN FRYE adjourned the meeting at 7:22 p.m.

Submitted by,

Pam Watts

Pam Watts
Committee Assistant

Reviewed by,

Eric Carlson

Eric Carlson
Committee Administrator

EXHIBIT SUMMARY

- A - Testimony, Sen. Cliff Trow, SB 219
- B - Written Testimony, Jerry Fisher, SB 219
- C - Written Testimony, Gary Conkling, SB 219
- D - Written Testimony, Oregon State System of Higher Education, SB 219
- E - Testimony, Rep. Rocky Barilla, HB 2314
- F - Testimony, Danny Santos HB 2314
- G - Proposed Amendment, Marilyn Coffel, HB 2314
- H - Testimony, Lee Erickson, HB 2314
- I - Testimony, Sen. Larry Hill, SB 847
- J - Letter, Thad Guyer, HB 2724

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- K - Testimony, Max Rae, HB 2304
- L - Testimony, Terry Rogers, HB 2304
- M - Revised SB 566 with Proposed Amendments, Bradd Swank, SB 566
- N - Proposed Amendments, Bradd Swank, SB 566
- O - Memorandum, Staff, SB 566
- P - List of Process Servers, Richard Bray, SB 566
- Q - Testimony, Jim Swanson, SB 566
- R - Written Testimony, Mark Comstock, SB 566

MATERIALS SUBMITTED BUT NOT REFERRED TO

- S - Written Testimony, Commission on Hispanic Affairs, HB 2314
- T - Written Testimony, Harrison Latto, SB 847
- U - Written Testimony, Kris Gorsuch, SB 847
- V - Written Testimony, Eric Yandell, SB 847
- W - Written Testimony, Karen Wisenor, SB 566
- X - Written Testimony, R.P. Bray, SB 566
- Y - Written Testimony, Bruce Bray, SB 566
- Z - Written Testimony, Jeff Campbell, SB 566
- AA - Written Testimony, Elaine Dunlap-Heer, SB 566
- BB - Written Testimony, Jim Bushling, SB 566
- CC - Written Testimony, Carl Stecker, SB 566
- DD - Written Testimony, Robert Neuberger, HB 2298
- EE - Written Testimony, Orrin Ormsbee, HB 2298

ROCKY BARILLA
DISTRICT 31

REPLY TO:
H-471 State Capitol Building
Salem, Oregon 97310-1347



SENATE JUDICIARY

Bill No. HB 2314 Pages 1
Sponsor E Date 5/20/87
Introduced by Rep. Rocky Barilla
Member

COMMITTEES
Vice-Chairperson:
Housing and Urban
Development
Environment and Energy
State and Federal Affairs
Legislative Rules,
Operations and Reform
Legislative Counsel

HOUSE OF REPRESENTATIVES
SALEM, OREGON
97310-1347

Testimony to be given by Rep. Rocky Barilla

Wednesday, May 20, 1987

Subject: HB 2314 Local Enforcement of Immigration Laws

Chairperson Frye and Members of the Senate Judiciary Committee:

HB 2314 clarifies the existing law prohibiting local police from enforcing federal immigration laws.

The intent of this measure is to ensure that only the Immigration and Naturalization Service enforces immigration law.

Immigration laws are very complex and require specialized training in their enforcement. Local police have neither the authority nor the training to enforce any such laws. The State has enough to do in enforcing its own criminal laws. There are problems when local police try to enforce federal immigration laws, to mention a few:

1. An increased fiscal impact on cities and counties in terms of higher costs of enforcement.
2. There are increased litigation and insurance costs against cities and counties for false arrests by local police.
3. This also exacerbates the jail overcrowding problem.
4. There are also questions of infringements upon civil rights just because a person looks like an alien.
5. Lastly, in the face of the new Immigration Reform Act of 1986, there would be great difficulty in trying to determine the immigration status of an alien.

In 1977, an Attorney General's Opinion stated that neither state nor federal law authorizes local police to initiate investigations of, or to stop, detain or arrest persons solely because they are suspected illegal aliens. This bill would codify that opinion.

What the bill does not do:

It doesn't prevent local police from arresting aliens who are engaged in criminal activity. Nobody should go unpunished for criminal activity.

This bill passed the House 54-3.

I urge your support. Thank you.



April 30, 1987

SENATE JUDICIARY
 Bill No. HB 2314 Pages 2
 Exhibit F Date 5/20/87
 Presented by Danny Santos

To: Senate Judiciary Committee
 From: Danny Santos, State President of HPAC
 Re: House Bill 2314

D.S.

APR 30 REC'D

Dear Committee Members:

The Hispanic Political Action Committee is concerned about the enforcement of federal immigration laws by local, county and state law enforcement agencies. Such attempts by Oregon officials to enforce these federal laws has had an adverse affect on community relations with the Hispanic citizenry. We believe that HB 2314 will help solve this problem and we respectfully request your support. We ask that you schedule a hearing for HB 2314 at your earliest possible convenience.

The following will provide you with background on the current situation and the need for the bill.

THE LAW

Under the United States Constitution's Preemption Clause, the Immigration and Naturalization Act (8 USC 1101 et seq.), U.S. Attorney General Bell's Opinion, Oregon Attorney General Redden's Opinion (No. 7439, April 28, 1977), and several court decisions, it is clear that state and local law enforcement officers have no authority to enforce federal immigration laws. The authority to enforce immigration laws is delegated to the Immigration and Naturalization Service (INS) under 8 USC 1357.

THE PROBLEMS

The majority of law enforcement agencies seem to understand the law and do not attempt to enforce immigration laws. However, some local law enforcement agencies have attempted to enforce immigration laws by themselves or in conjunction with the INS. The justification for these illegal practices are threefold: 1) they have done it in the past and do not understand why they can not continue to do so; 2) they are sworn to uphold the laws of this country and they are doing so by looking for illegal aliens; 3) they do not understand the law because there is no state statute covering this matter. The statutes, legal opinions, and the courts all indicate that such rationales are invalid. In Oregon there have been several lawsuits regarding these illegalities [(Trevion v. City of Independence Police and Polk County Sheriff (1977)).]

RAMIFICATIONS OF ILLEGAL ENFORCEMENT

1) Hispanic and other ethnic minorities, citizen and non-citizen alike, are detained, interrogated, and harassed by local law enforcement agencies on the basis of skin color, language, and dress. This is a violation of one's right to privacy and equal protection. Hispanics and other minorities are treated as second class citizens.

2) Local law enforcement agencies are not trained in immigration law. Local police are usually trained only in criminal law which

**Hispanic Political Action Committee**

up to file
 7/1/87

remains fairly constant. Immigration law, however, is not criminal, but civil law, and is constantly changing. INS agents are specially trained in the enforcement of immigration laws. (Please note that local law enforcement agencies do not enforce the federal tax laws which are also civil).

3) High priority criminal law enforcement and investigation is being subdued for the purpose of enforcing low priority, non-criminal matters. This does not set well with the local taxpayers, especially the Hispanic taxpayers, when local law enforcement agencies are trying to justify their budgets.

4) Local governments run the risk of incurring liability for violating a person's civil rights. Governments then have to expend monies out of their coffers in defending these types of cases. They are also quite time consuming. In most cases, a local government's insurance does not cover civil rights violations, and therefore, additional legal costs will be incurred.

THE BILL ITSELF

The purpose of this bill is to resolve the problem of local law enforcement agencies attempting to enforce federal immigration laws. The bill would be a restatement of what the law is and will give an Oregon statute citation as to what the law is. Hopefully, this bill will assist law enforcement agencies in better understanding what the law is. The bill would reiterate the fact that only the INS has the authority to enforce federal immigration laws. The bill would not interfere with law enforcement agencies' enforcement of criminal laws. Under the bill, local police are allowed to contact INS if an alien is arrested in a criminal matter.

LEGISLATIVE BACKGROUND

This bill passed the House on February 20, 1987 by a vote of 54-3.

If we may be of any further assistance on this bill or any other matter, please do not hesitate to contact us:

Hispanic Political Action Committee
P.O. Box 161
Salem, Oregon 97308

Thank you for your consideration and service.



SENATE JUDICIARY
 Bill No. HB 2314 Pages 2
 Exhibit G Date 5/20/87
 Presented by Marilyn Coffey

BUREAU OF LABOR AND INDUSTRIES

Mary Roberts, Commissioner

Senate Judiciary

April 14, 1987

15 APR 1987

Senator Bill Frye, Chair
 Senate Judiciary Committee
 S217 State Capitol
 Salem, Oregon 97310-1437

HB 2314

Dear Senator Frye & Members:

I would like to bring to your attention a potential conflict in state policy in regard to HB 2314 and Oregon's farm labor contractor statute. Current farm labor contractor law prohibits farm labor contractors from knowingly employing an alien not legally present or employable in the United States. In order to enforce this statute, the Bureau has found it necessary to accompany representatives of the Immigration and Naturalization Service (INS) when they check farm and forest labor crews for citizenship status. Although the Bureau does not assist in apprehending these persons, it might be interpreted that the Bureau does assist in the detection of such persons.

Because the bill contains no definition of a "law enforcement agency", my concern is that we could be defined as such. This interpretation could severely restrict the enforcement of that section of the Farm Labor Contractor Law as to render the statute useless. Only the INS has the statutory authority to determine the legality of an individual's citizenship and it is for this reason we accompany them.

The Bureau has revoked several licenses for violation of this law. Therefore, to ensure no possible conflicts, I will propose an amendment to HB 2314. The amendment would add a subsection (3) as follows on line 11:

"(3) For purpose of subsection (1) of this section, the
Bureau of Labor and Industries is not a law enforcement
agency."

PORTLAND
 1400 SW 5th Avenue
 Portland, Oregon 97201

MEDFORD
 700 E. Main
 Medford, Oregon 97504

SALEM
 3865 Wolverine St. NE; E-1
 Salem, Oregon 97310

COOS BAY
 320 Central Ave., Suite 510
 Coos Bay, Oregon 97420

BEND
 1230 NE Third, Suite A244
 Bend, Oregon 97701

EUGENE
 165 E. 7th Street, Suite 220
 Eugene, Oregon 97401

PENDLETON
 700 SE Emigrant, Suite 240
 Pendleton, Oregon 97801

AN EQUAL OPPORTUNITY EMPLOYER

Senator Frye
April 14, 1987
page 2

When the bill is proposed for hearing, I will be there to testify and submit the above amendment. I would appreciate your consideration of this proposal.

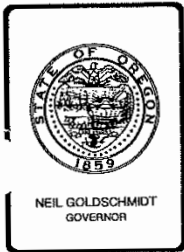
Sincerely,

A handwritten signature in cursive script, appearing to read "Marilyn Coffel".

Marilyn Coffel
Executive Assistant

MC:cp

cc: Members
Senate Judiciary Committee



SENATE JUDICIARY
Bill No. HB 2314 Pages 3
Exhibit H Date 5/20/87
Presented by LEE ERICKSON

Department of State Police

PUBLIC SERVICE BUILDING, SALEM, OREGON 97310

May 19, 1987

Senator William (Bill) Frye
Chairman
Senate Judiciary Committee
Salem, Oregon

Chairperson Frye, Committee Members, for the record, I am Lieutenant Lee C. Erickson, Assistant Division Commander of the Oregon State Police Criminal Division. The Department opposes House Bill 2314.

The Oregon State Police, by policy, does not enforce federal immigration laws. The only immigration issues that the Department addresses are those surrounding criminal behavior by illegal aliens. This bill, however, would hamper the Department's ability to conduct a criminal investigation; and, for that reason, we must oppose the bill as it is written.

The Department periodically initiates investigations into a wide assortment of crimes including, but not limited to, homicide, narcotic violations, burglary rings, sex crimes, and other crimes against persons. It is not

House Bill 2314
Page 2

uncommon that illegal aliens are involved in some of these investigations. During the course of the investigation, it may be necessary to identify those involved and to verify their immigration status through INS. This bill under Section II would prohibit the Department from contacting United States Immigration and Naturalization Service unless the person is arrested. This would needlessly hamper the Department's investigations. Current investigations, such as the investigation being conducted by Marion County Sheriff's Office of an unidentified murder victim who is of apparent Mexican nationality and the Klamath Falls State Police investigation of a murdered hispanic citizen, could potentially be hampered if law enforcement agencies were restricted in their ability to contact the Naturalization Service for investigative assistance.

Certainly, the completed Rajneesh investigation depended in a large part on the contact with, and participation of, Immigration officials.

In closing, the Department of State Police, by written rules, adheres to Section I of the proposed law, but must oppose the bill for the limitations set forth in Section II.

House Bill 2314
Page 3

Chairperson and Committee Members, this concludes my testimony; if you have any questions, I will be free to answer them.



SENATE JUDICIARY

Bill No. HB 2314 Pages 1
Exhibit 5 Date 5/20/87

Commission on Hispanic Affairs ~~Commission on Hispanic Affairs~~

695 SUMMER STREET NE., SALEM, OREGON 97310 PHONE 373-7397

To: Committee Members
From: Commission on Hispanic Affairs

May 20, 1987

Dear Committee:

The Commission on Hispanic Affairs would like to take this opportunity to lend their support to House Bill 2514. The Commission on Hispanic Affairs does not believe that the enforcement of federal immigration laws by our local law enforcement agencies is in the best interest of our state because of the adverse effect it has had and would have on our Hispanic citizenry. We therefore urge your support on House Bill 2514.

While most of the controversy today is over illegal immigration there is hardly any discussion of LEGAL immigration into this country. The ramifications of ILLEGAL ENFORCEMENT is such that Hispanics and other ethnic minorities, including United States citizens, are detained, interrogated, and harassed by local law enforcement agencies on the mere bases of color, language, and dress, a clear violation of one's constitutional rights. Hispanics, whether they be American citizens or legal immigrants are entitled to the same rights and protections as any other citizen. Local police are usually only trained in criminal law, immigration law, however, is not criminal, but civil law which is constantly changing. Further more, local governments have to expend money out of there own pockets to pursue this type of law enforcement. High priority criminal law enforcement and investigation moneys have been and would be diverted for the purpose of enforcing low priority, non-criminal matters.

The majority of law enforcement agencies seem to know and understand the Law and do not attempt to enforce immigration law, and those agencies do not concern us. However, It is the local law enforcement agencies that have attempted to enforce immigration law on their own or in conjunction with the INS that cause us to have grave concern. We of the Hispanic Commission respectfully urge your support of House Bill 2514 on the basis that this law would put into perspective for all local law enforcement agencies in the State of Oregon their role in the enforcement of federal immigration law. House Bill 2514 is a restatement of what the Law is and will give an Oregon statute citation of what the law is. Thank you.

Robert Mendoza

Commissioner

2314

Bills considered:
SB 909, HB 2171, 2293, 2394
2297, 2304, 2314, 2336, 2522,
2724, 2949, HJR 26

SENATE COMMITTEE ON JUDICIARY
64th LEGISLATIVE SESSION

June 3, 1987
Tapes 170 - 171

Hearing Room 343
State Capitol

MEMBERS PRESENT: SEN. WILLIAM (BILL) FRYE, CHAIRMAN
SEN. JAN WYERS, CO-CHAIRMAN
SEN. JOHN BRENNEMAN
SEN. PETER BROCKMAN
SEN. JOYCE COHEN (excused)
SEN. JEANNETTE HAMBY
SEN. JIM HILL

STAFF PRESENT: ERIC CARLSON, ADMINISTRATOR
JANE BEYER-HAYNES, COMMITTEE ASSISTANT

WITNESSES: BETTY REYNOLDS, Executive Director of the Ethics Commission
ROGER MARTIN, Capitol Club
DAVE BARROWS, Capitol Club
FRANK BRONNER, Oregon Bankers Association
GREG MCMURDO, Oregon State Bar

TAPE 170, SIDE A

010 CHAIRMAN BILL FRYE called the meeting to order at 5:11 p.m. Present at that time were SENATORS BRENNEMAN, BROCKMAN, HAMBY and HILL.

WORK SESSION
HB 2171 A-eng., relating to ethics

5:12 SEN. WYERS entered.

019 COUNSEL CARLSON said the Senate President's office has suggested an amendment to this bill, identified as the -3 amendments (EXHIBIT A). The amendment addresses the issue of 16 hours or \$50 of lobbying; the concern was that an organization of some kind might break that up between two or more individuals and as an organization, evade the limit. This amendment would cover whole organizations, whether or not they are comprised of more than one individual. He suggested adopting the language in concept and allowing him to work with Legislative Counsel to make the language grammatically correct. He stated that Roger Martin of the Capitol Club had testified in favor of the amendments (see minutes of 5-26-87). Common Cause sent a letter to the committee indicating support of the bill (EXHIBIT B). He referred members to an annotated version of the bill from Betty Reynolds (Ex. A, 5-26-87) which explains all the changes. He stated that most of the changes the bill makes are clarifications, and any substantive changes are very minor and were necessitated by the clarifications.

044 SEN. BROCKMAN asked Ms. Reynolds how a corporation or association spends 16 hours "doing something".

048 BETTY REYNOLDS, Executive Director of the Ethics Commission, explained that the amendment attempts to address a circumstance in which a group called Voters for Oregon Timber Resources launched a letter writing campaign encouraging

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Senate Committee on
Judiciary
June 3, 1987

HB 2304 A-Engrossed, relating to administrative procedures

356 COUNSEL CARLSON said the bill sets up a commission to study contested case proceedings, to report on the role of hearings officers and administrative law judges and to review the whole issue of ex parte communications.

SEN. WYERS stepped out.

CHAIRMAN FRYE stated this bill was in lieu of the other three bills which would make substantial changes in the procedures.

362 MOTION SEN. BROCKMAN moved HB 2304 to the Floor with a do pass recommendation.

VOTE: In a roll call vote, all members present voted aye. Excused were Senators Cohen, Hill and Wyers. (NOTE: In a subsequent motion, it was unanimously agreed to allow Sen. Hill to cast an AYE vote on this bill. See Tape Count 438, this tape.)

368 SEN. HAMBY suggested the committee may want to request that the subsequent referral to Ways and Means be rescinded.

COUNSEL CARLSON said the requestors of the bill had asked that it be rescinded.

MOTION: CHAIRMAN FRYE moved to write to the President's office to request rescision of the subsequent referral to Ways and Means.

VOTE There were no objections, and the motion passed.

5:36 SEN. HILL returned.

HB 2314, relating to law enforcement

380 CHAIRMAN FRYE stated there had been no opposition to this bill that he knew of, even though the topic was coming back for the third session.

390 SEN. BRENNEMAN confirmed through Counsel Carlson that the -1 amendments (EXHIBIT C) were the ones from Rep. Barilla and the State Police. COUNSEL CARLSON responded to a question from SEN. HAMBY by stating that the Bureau of Labor and Industries' amendments also show up in the -1 amendments.

404 MOTION SEN. HAMBY moved adoption of the -1 amendments (as printed).

VOTE There were no objections and it was so ordered.

408 COUNSEL CARLSON paraphrased his staff measure analysis (EXHIBIT D) which suggests and explains the hand-written amendments on Ex. C.

A letter from Danny Santos of the Hispanic Political Action Committee supporting the proposed amendments was entered as EXHIBIT E.

MOTION SEN. HAMBY moved adoption of the hand-written amendments contained on the hand-engrossed HB 2314 (pg. 2, Ex. C).

Page 5
Senate Committee on
Judiciary
June 3, 1987

VOTE There being no objections, the motion was passed.

425 **MOTION** SEN. HAMBY moved HB 2314 as amended to the Floor with a do pass recommendation.

VOTE: In a roll call vote, all members present voted aye. Excused were Senators Cohen and Wyers.

438 SEN. HILL asked to be recorded as an AYE vote on the last two bills which were passed out of committee while he was out of the room. Hearing no objection, CHAIRMAN FRYE said it was allowed.

HB 2293, relating to courts

449 COUNSEL CARLSON said this bill was proposed by the Oregon State Bar to deal with cases filed in the wrong court. Under current law, if a case is misfiled, it is then dismissed and started over in the right forum. The bill establishes a transfer procedure rather than dismissal and refiling.

468 SEN. HAMBY said she had a note from the State Court Administrator stating his opposition to the bill (EXHIBIT F). She added that she had no problem with it. CHAIRMAN FRYE commented that Mr. Linden is one of the attorneys who doesn't have to pay for Professional Liability Insurance, and he couldn't get caught up in making these mistakes. CHAIRMAN FRYE said the bill would save people whose lawyers occasionally make a mistake and file in the wrong court. He stated he couldn't see that it does anything to the court system.

491 **MOTION** SEN. BRENNEMAN moved HB 2293 to the Floor with a do pass recommendation.

VOTE In a roll call vote, all members present voted AYE. Sen. Cohen was excused.

NOTE: A letter from Chief Judge Joseph opposing the bill was entered as EXHIBIT G; a statement in support from the Oregon State Bar was entered as EXHIBIT H.

TAPE 171, SIDE A

HB 2297, relating to financial statements

037 COUNSEL CARLSON said this bill from the Bar adds an option for a ten year financing statement under the UCC. He said the Banking Association proposed amendments which are identified as the -6 amendments (EXHIBIT I).

COUNSEL CARLSON said in addition to the -6 amendments, the sentence beginning at the end of line 31 and continuing through line 33 of pg. 3 of the printed House Amendments needs to be deleted. He said that would cure a number of problems that both the Bankers and the Bar discovered, and would not damage anybody. He said Dianna Godwin of the OSB, the Secretary of State and Frank Brawner of the Bankers Assoc. have worked out this amendment.

MOTION CHAIRMAN FRYE moved to amend the House Amendments by deleting the sentence beginning at the end of line 31, pg. 3 and continuing through line 33.

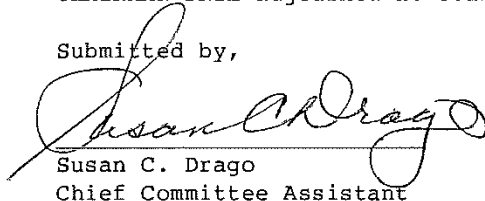
Page 9
Senate Committee on
Judiciary
June 3, 1987

- 159 SEN. HAMBY said she would agree that \$2,500 is not much these days and asked what type of cases go to small claims court. CHAIRMAN FRYE said usually neighborhood disputes, bill collection, etc.
- 470 SEN. BRENNEMAN said he uses small claims court mainly for collection of unpaid bills because by the time you turn an account over to a collection agency, and they take half, there's not much left. The filing fee is low, and he thinks it's an effective system.

TAPE 170, SIDE B

- 009 CHAIRMAN FRYE said by and large, most small claims do not involve bill collecting, but are two-bit disputes over small things. Raising the limit to \$2,500 would allow for a lot of property damage suits and tort liability cases that would tend to bog down the system.
- 022 SEN. WYERS said he would vote for the bill if he could have assurance that it wouldn't flood the small claims court in Multnomah County. CHAIRMAN FRYE said the bill would have some investigation done on it and be rescheduled.
- 036 SEN. BRENNEMAN withdrew his motion.
- 038 CHAIRMAN FRYE adjourned at 6:12 pm.

Submitted by,


Susan C. Drago
Chief Committee Assistant

Reviewed by,

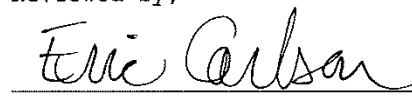

Eric Carlson
Committee Administrator

EXHIBIT SUMMARY

- A - Proposed amendments, LC -3 (6/1/87), Staff and others, HB 2171
- B - Testimony, Oregon Common Cause, HB 2171
- C - Proposed amendments, LC -1 (5/21/87), Staff, Rep. Barilla and others, HB 2314
- D - Staff Measure Analysis, Counsel Carlson, HB 2314
- E - Written testimony, Hispanic Political Action Committee, HB 2314
- F - Letter in opposition, State Court Administrator, HB 2293
- G - Letter commentary, Chief Judge Joseph, HB 2293
- H - Statement in support, Oregon State Bar, HB 2293
- I - Proposed amendments, LC -6 (6/3/87), Oregon Bankers Association, HB 2297
- J - Staff Measure Analysis, Counsel Carlson, HB 2336
- K - Proposed amendments, LC -6 (5/29/87), Greg McMurdo, HB 2336

SENATE JUDICIARY

Bill No. HB 2314 Pages 2
Exhibit C Date 6-3-87 Legislative Counsel
Presented by Staff, Rep. Barilla & others HB 2314-1
(LC 1353)
5/21/87 (1c)

PROPOSED AMENDMENTS TO HOUSE BILL 2314

- 1
- 2 In line 9 of the printed bill, after "to" insert a colon and
- 3 begin a new paragraph and insert "(a)".
- 4 In line 10, delete the period and insert "; or".
- 5 After line 10, insert:
- 6 "(b) Request criminal investigation information with reference
- 7 to persons named in service records.
- 8 "(3) For purposes of subsection (1) of this section, the Bureau
- 9 of Labor and Industries is not a law enforcement agency."

In line 6, delete "offense" and insert "violation of law".

In line 8, delete "Contact" and insert "exchange information with".

64th OREGON LEGISLATIVE ASSEMBLY--1987 Regular Session

House Bill 2314

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Joint Interim Judiciary Committee for Hispanic Political Action Committee)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Prohibits state and local law enforcement agencies from enforcing immigration laws. Permits law enforcement agency to contact United States Immigration and Naturalization Service in order to verify immigration status of person arrested for criminal offense.

A BILL FOR AN ACT

1
2 Relating to law enforcement.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** (1) No law enforcement agency of the State of Oregon or of any political subdi-
5 vision of the state shall use agency moneys, equipment or personnel for the purpose of detecting or
6 apprehending persons whose only ^{violation of law} offense is that they are persons of foreign citizenship residing in
7 the United States in violation of federal immigration laws.

8 (2) Notwithstanding subsection (1) of this section, a law enforcement agency may ⁽²⁾ ~~contact~~ ^{exchange info with} the
9 United States Immigration and Naturalization Service in order to ⁽²⁾ verify the immigration status of
10 a person if the person is arrested for any criminal offense; or

11 (b) Request criminal investigation information with reference to persons named in service records.

(3) For purposes of subsection (1) of this section, the Bureau of Labor and Industries is not a law enforcement agency.

NOTE: Matter in bold face in an amended section is new; matter [italic and bracketed] is existing law to be omitted.

SENATE JUDICIARY

Bill No. HB 2314 Pages 1
 OREGON STATE SENATE PRELIMINARY:
 Presented by Staff COMMITTEE
 LEGISLATIVE SESSION - 1987
 USE ONLY

STAFF MEASURE ANALYSIS

Measure: **HB 2314**

Title: Relating to law enforcement

Committee: Senate Judiciary

Hearing Dates: 5/20/87, 6/03/87 (w/s)

Explanation prepared by: Eric Carlson, co-counsel

PROBLEM ADDRESSED.

Immigration law is federal civil law. It is enforced solely by the INS. INS agents have specialized training that state and local police and sheriffs do not have.

Local and state law enforcement agencies have no authority under federal law to enforce immigration laws, and have been successfully challenged when they have tried.

In opinion number 7439, dated 28 April 1977, A.G. Jim Redden stated that a police officer's right to stop, interrogate, or arrest a person must be granted to the policeman by a governmental unit. In examining Oregon law, there was no authority found for police officers to enforce federal immigration law.

Nevertheless, law enforcement personnel in certain communities do from time to time stop and interrogate people using immigration law as the basis for the stop.

FUNCTION AND PURPOSE OF MEASURE AS Printed.

The measure would codify existing practice and prohibit the use of public resources to detect or apprehend persons whose only apparent violation of law is that they are residing in the U.S. in violation of federal immigration law.

The measure does provide that law enforcement agencies may contact the INS to verify immigration status of people who are arrested for a criminal offense.

AMENDMENTS.

Rep. Barilla and Lt. Erickson of the OSP have worked out an amendment which would allow the INS to request criminal investigation information about persons who are named in INS records.

Cory Streisinger of the Gov's office suggests replacing "offense" on line 6 with "violation of law", since an offense is criminal, and immigration law is civil.

I would suggest replacing "contact" on line 8 with "exchange information with". This would emphasize that information either the INS or local officials could initiate the contact.

hb2314sm.pre
06/03/87

Note: This analysis is intended for information only and has not been adopted or officially endorsed by action of the committee.

SENATE JUDICIARY
Bill No. HB 2314
Exhibit E Date 6-3-87
Presented by Danny Santos, HPAC

June 2, 1987

To: Senator William Frye, Chair, Senate Judiciary Committee
Committee Members, Senators: Jan Wyers; John Brenneman; Peter Brockman;
Joyce Cohen; Jeannette Hamby; Jim Hill.
Re: Support of HB 2314

Thank you for the opportunity to testify in support of HB 2314 at the hearing on May 20, 1987. Likewise, your consideration of the bill at the work session scheduled for June 3 is appreciated.

At this time I just wished to inform you that the Hispanic Political Action Committee has no problems with the two amendments that were submitted to the committee at the May 20th hearing. The first amendment was from the Bureau of Labor and Industries requesting that the Bureau not be defined as an "law enforcement agency" under the bill so as to allow it to enforce its rules. The second amendment was proposed by the State Police requesting that law enforcement agencies be given the ability to contact the Immigration and Naturalization Service while conducting a criminal investigation.

It is our hope that you can support the bill and send it to the Senate floor with a "do pass" recommendation. Your consideration and support are deeply appreciated. If HPAC can be of any further assistance in this or any other matter, please do not hesitate to contact us.

Thank you.

Sincerely,



Daniel P. Santos
Hispanic Political Action Committee
P.O. Box 161
Salem, Oregon 97308

HPAC Hispanic Political Action Committee